



**THE JUSTICE DEPARTMENT'S DEVIATIONS FROM STANDARD PROCESSES IN
ITS INVESTIGATION OF HUNTER BIDEN**

Interim Staff Report of the

Committee on the Judiciary,
Committee on Ways and Means, and
Committee on Oversight and Accountability

U.S. House of Representatives

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EXECUTIVE SUMMARY

“Corruption is a cancer, a cancer that eats away at a citizen’s faith in democracy It saps the collective strength and resolve of a nation. Corruption is just another form of tyranny.”

—Vice President Joe Biden, May 21, 2014

In the spring of 2023, two brave IRS whistleblowers stepped forward to notify Congress of how the Justice Department had impeded, delayed, and obstructed the criminal investigation of the President’s son, Hunter Biden. The whistleblowers, who came forward only after IRS leadership failed to address their concerns, noted several deviations by Justice Department officials “from the normal process that provided preferential treatment, in this case to Hunter Biden.”¹ The whistleblowers exposed how the Justice Department allowed the statute of limitations on certain charges against Hunter Biden to lapse, prohibited line investigators from referring to or asking about President Biden during witness interviews, withheld evidence from line investigators, excluded the investigative team from meetings with defense counsel, and tipped off defense counsel about pending search warrants.²

On September 12, 2023, on the basis of testimony from these whistleblower and other evidence gathered to that point, the Speaker of the House directed the Committees to conduct an inquiry to determine whether sufficient grounds existed for the impeachment of President Biden.³ On September 27, 2023, pursuant to the Speaker’s directive, the Committees released a memorandum laying out what the Committees were investigating, including: (1) foreign money received by the Biden family; (2) President Joe Biden’s involvement in his family’s foreign business entanglements; and (3) steps taken by the Biden Administration to slow, hamper, or otherwise impede the criminal investigation of the President’s son, Hunter Biden, which involves funds received by the Biden family from foreign sources.⁴

The third prong of the impeachment inquiry encompasses oversight, initiated by the Committees following the whistleblowers’ revelations, into the Biden Justice Department’s purported commitment to impartial justice. As part of this aspect of the inquiry, as it relates to the criminal investigation of Hunter Biden and the potential obstruction of that investigation, the Committees have so far obtained hundreds of pages of documents from the whistleblowers and conducted transcribed interviews with ten officials from the Justice Department, FBI, and IRS. Those officials are:

- Special Counsel and U.S. Attorney for the District of Delaware David Weiss,
- U.S. Attorney for the District of Columbia Matthew Graves,

¹ Transcribed Interview of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv., at 10 (May 26, 2023) [hereinafter Shapley Interview].

² *Id.*; Transcribed Interview of Joseph Ziegler, Special Agent, Internal Revenue Serv. (June 1, 2023) [hereinafter Ziegler Interview].

³ Press Release, Rep. Kevin McCarthy, Speaker of the H. of Reps., Speaker McCarthy Opens an Impeachment Inquiry (Sept. 12, 2023).

⁴ Memorandum from Chairmen Jim Jordan, James Comer, and Jason Smith, to Members of the H. Comm. on the Judiciary, H. Comm. on Oversight & Accountability, and H. Comm. on Ways & Means (Sept. 27, 2023).

- U.S. Attorney for the Central District of California E. Martin Estrada,
- Former U.S Attorney for the Western District of Pennsylvania Scott Brady,
- Acting Deputy Assistant Attorney General for Criminal Matters at the Justice Department’s Tax Division Stuart Goldberg,
- FBI Special Agent in Charge Thomas Sobocinski,
- FBI Assistant Special Agent in Charge Ryeshia Holley,
- Former FBI Supervisory Special Agent Joe Gordon,
- IRS Director of Field Operations Michael Batdorf, and
- IRS Special Agent in Charge Darrell Waldon

The testimony and documents received by the Committees to date corroborates many of the allegations made by the IRS whistleblowers. For example:

- ***Testimony demonstrated that the Justice Department and FBI bureaucrats afforded special treatment to Joe Biden’s adult son Hunter.*** Several witnesses acknowledged the delicate approach used during the Hunter Biden case, describing the investigation as “sensitive” or “significant.” Evidence shows Department officials slow-walked the investigation, informed defense counsel of future investigative actions, prevented line investigators from taking otherwise ordinary investigative steps, and even allowed the statute of limitations to expire on the most serious potential charges. These unusual—and oftentimes in the view of witnesses, unprecedented—tactics conflicted with standard operating procedures and ultimately had the effect of benefiting Hunter Biden.
- ***Biden Justice Department officials explained to the Committees how U.S. Attorney Weiss did not have “ultimate authority” over the Hunter Biden case, contrary to his assertions to Congress.*** Instead, Biden Administration political appointees exercised significant oversight and control over the investigation. Witnesses described how Weiss had to seek (1) agreement from other U.S. Attorneys to bring cases in a district geographically distinct from his own and (2) approval from the Biden Justice Department’s Tax Division to bring specific charges or take investigative actions against Hunter Biden.
- ***After the whistleblowers came forward, the Biden Justice Department attempted to cover-up Hunter Biden’s wrongdoing, as well as its own.*** There is no question that without the brave IRS whistleblowers, it is likely that the Biden Justice Department would have never acted on Hunter Biden’s misconduct. When forced to act, the Biden Justice Department worked closely with Hunter Biden’s counsel to craft an

unprecedented plea deal that was so biased in the direction of Hunter Biden it fell apart in open court. When a federal judge rejected the Department's attempt to push through a sweetheart plea deal and quietly end the five-year investigation of Hunter Biden, Attorney General Garland appointed Weiss as special counsel and refused to answer questions about the case on the basis of the existence of an "ongoing investigation." Using the "ongoing investigation" as a veil to shield its misconduct, the Biden Justice Department unilaterally limited the scope of witness testimony and document productions to Congress, severely curtailing the Committees' ability to gather information.

Even still, despite these troubling findings, there is more information that the Justice Department is keeping from the Committees. The Justice Department has still not fully complied with requests for relevant documents, and it has impeded the Committees' investigation by baselessly preventing two Tax Division officials—Senior Litigation Counsel Mark Daly and Trial Attorney Jack Morgan—from testifying, despite subpoenas compelling their testimony. These documents and this testimony are necessary for the Committees to complete our inquiry.

The Department's blatant disregard for the Committees' constitutionally prescribed oversight responsibilities is yet another stain that the Biden Administration has placed on the Justice Department's once-venerated reputation. Although the Committees' investigation is far from complete, this interim report details the findings to date and summarizes some of the evidence uncovered in the impeachment inquiry. The Committees will continue to gather evidence to determine whether sufficient grounds exist to draft articles of impeachment against President Biden for consideration by the full House of Representatives.

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BACKGROUND

In November 2018, the Internal Revenue Service (IRS) opened an investigation into Hunter Biden for potential tax crimes after discovering bank reports showing that “Hunter Biden was living lavishly through his corporate bank account,” along with public reporting about Hunter Biden’s substantial tax debt.⁵ The IRS’s investigation was soon followed by an investigation opened out of the Federal Bureau of Investigation (FBI) Wilmington Resident Agency, a sub-office of the FBI’s Baltimore Field Office, in February 2019.⁶ Two months later, in April 2019, FBI investigators learned of the IRS’s investigation of Hunter Biden, and the Justice Department merged the two investigations later that month.⁷ In October 2019, the FBI learned of a laptop and external hard drive previously owned by Hunter Biden that contained evidence of Hunter Biden’s criminal conduct,⁸ including drug use, solicitation of prostitutes, and influence-peddling.⁹ In November 2019, the FBI verified the authenticity of the laptop and hard drive and on December 9, 2019, the FBI seized the devices.¹⁰ After taking possession of the devices, the FBI notified the IRS that the devices contained evidence of Hunter Biden’s tax crimes,¹¹ though prosecutors withheld the contents of the devices from IRS case agents working on the Hunter Biden investigation.¹²

In April 2023, the Committees became aware of serious whistleblower allegations from two IRS agents who worked on the Justice Department’s criminal investigation of Hunter Biden.¹³ In particular, a lawyer for one of the whistleblowers informed the Committees that his client wanted to make protected disclosures to Congress that:

(1) contradict sworn testimony to Congress by a senior political appointee, (2) involve failure to mitigate clear conflicts of interest in the ultimate disposition of the case, and (3) detail examples of preferential treatment and politics improperly infecting decisions and protocols that would normally be followed by career law enforcement professionals in similar circumstances if the subject were not politically connected.¹⁴

⁵ Ziegler Interview at 17. *See also* Shapley Interview at 12.

⁶ Transcribed Interview of Joe Gordon, Ret. Supervisory Special Agent, Fed. Bureau of Investigation, at 63 (July 17, 2023) [hereinafter Gordon Interview].

⁷ *Id.* at 29, 64. *See also* Letter from Dean Zerbe to H. Comm. on Ways & Means (June 19, 2023) (explaining that although Ziegler initially testified that Attorney General Bill Barr directed that the two investigations be merged, he later realized that he was mistaken and that he was unaware as to who at the Justice Department directed that the investigations be merged).

⁸ Shapley Interview at 12; Shapley Interview, Ex. 6.

⁹ Victor Nava & Miranda Devine, *Delaware ‘laptop from hell’ repairman John Paul Mac Isaac deposed by Hunter Biden lawyers for 7 hours*, N.Y. POST (June 2, 2023).

¹⁰ Shapley Interview at 12; Shapley Interview, Ex. 6.

¹¹ Shapley Interview at 12; Shapley Interview, Ex. 6.

¹² Shapley Interview at 16; Shapley Interview, Ex. 6.

¹³ *See* Letter from Mark D. Lytle to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al. (Apr. 19, 2023); Letter from Tristan Leavitt & Mark D. Lytle to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al. (May 15, 2023).

¹⁴ Letter from Mark D. Lytle to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al. (Apr. 19, 2023).

On May 26, 2023, IRS Supervisory Special Agent Gary Shapley bravely stepped forward, at great personal and professional risk, and testified before the Committee on Ways and Means about the preferential treatment that the Justice Department afforded to Hunter Biden throughout the course of its almost-five-year investigation.¹⁵ Six days later, on June 1, 2023, the IRS case agent who initially opened the investigation, Special Agent Joseph Ziegler, also testified before the Ways and Means Committee, similarly doing so at great personal and professional risk.¹⁶ On July 19, 2023, both Supervisory Special Agent Shapley and Special Agent Ziegler publicly testified at a hearing of the Committee on Oversight and Accountability about the preferential treatment they witnessed firsthand in the investigation concerning Hunter Biden.¹⁷

Both whistleblowers are seasoned IRS agents with years of experience dealing with high-profile and complex tax cases. Both have received numerous awards and commendations for the high quality of their work.¹⁸ Supervisory Special Agent Shapley, a 14-year veteran of the IRS, leads an elite team of a dozen agents who specialize in international tax and financial crimes.¹⁹ Special Agent Ziegler, a self-described Democrat,²⁰ is a 13-year veteran of the IRS who currently serves as an agent on Shapley's team.²¹ Until May 15, 2023, when the Justice Department ordered their removal from the case, Shapley served as the IRS supervisor over the Hunter Biden investigation,²² with Ziegler serving as the lead IRS case agent.²³

The whistleblowers' testimony to Congress noted several deviations by Department officials "from the normal process that provided preferential treatment, in this case to Hunter Biden,"²⁴ including: allowing the statute of limitations to lapse; requesting IRS and FBI management-level investigative communications; prohibiting investigators from asking about the "big guy" or "dad," both of which refer to Joe Biden,²⁵ during witness interviews; excluding the investigative team from meetings with defense counsel; and notifying defense counsel of pending search warrants.²⁶ Additionally, both whistleblowers testified about the investigators' failed attempt to interview Hunter Biden due to FBI headquarters giving the Biden transition team and Secret Service a heads-up of a surprise encounter.²⁷ By September 2022, Biden Justice Department prosecutors continued hindering the investigators' efforts by prohibiting any overt investigative actions until after the midterm elections, even though the Department's Public

¹⁵ Shapley Interview.

¹⁶ Ziegler Interview.

¹⁷ *Hearing with IRS Whistleblowers About the Biden Criminal Investigation: Before the H. Comm. on Oversight and Accountability*, 118th Cong. (July 19, 2023).

¹⁸ Shapley Interview at 8-9; Ziegler Interview at 11-12.

¹⁹ Shapley Interview at 8-9, 12.

²⁰ Ziegler Interview at 10.

²¹ Shapley Interview at 12.

²² *Id.*

²³ Ziegler Interview at 10.

²⁴ Shapley Interview at 10.

²⁵ *See id.* at 119 ("There were multiple times where Lesley Wolf said that she didn't want to ask questions about dad. And dad was kind of how we referred to him. We referred to Hunter Biden's father, you know, as dad."); Michael Goodwin, *Hunter biz partner confirms email, details Joe Biden's push to make millions from China: Goodwin*, N.Y. POST (Oct. 22, 2020) (quoting Hunter Biden's former business partner Tony Bobulinski as stating, "The reference to 'the Big Guy' in the much publicized May 13, 2017 email is in fact a reference to Joe Biden.").

²⁶ *See generally* Shapley Interview; Ziegler Interview.

²⁷ Shapley Interview at 19; Ziegler Interview at 119.

Integrity Section gave the prosecution team guidance to the contrary.²⁸ These major deviations from departmental process came to a boiling point on October 7, 2022, when Shapley attended a meeting at the Delaware U.S. Attorney’s Office (USAO) during which Weiss stated that he was not the deciding official on whether charges were filed against Hunter Biden.²⁹ Weiss’s confession at that meeting revealed that the Biden Administration was in fact controlling the investigation of the President’s son, despite Attorney General Garland’s sworn congressional testimony to the contrary.³⁰ Shapley described this meeting as a “red-line” for him, testifying that he then expressed several concerns directly to Weiss about how the Hunter Biden investigation had been handled.³¹

Shapley’s and Ziegler’s testimony provided *prima facie* evidence of several serious deficiencies in the Justice Department’s investigation and its commitment to impartial justice, as well as calling into question the truthfulness of statements made to Congress by senior Justice Department officials. Following their testimony, and to inform the Committees’ oversight of the Justice Department, the Committees requested transcribed interviews with eleven Department employees. To date, the Committees have conducted six of the requested interviews. Throughout the process, from unilaterally limiting the scope of interviews to directing two witnesses not to even appear for compelled depositions, the Justice Department has hindered the Committees’ ability to obtain information necessary to fully examine the allegations. Even still, despite these attempts at handicapping the Committees’ investigation, the information uncovered during these transcribed interviews confirms the whistleblowers’ testimony.

President Joe Biden promised to keep politics out of the Department. Just weeks before his inauguration, then-President-elect Biden said, “[i]t’s not my Justice Department. It’s the people’s Justice Department,” and that those leading the Department will have the “independent capacity to decide who gets prosecuted and who doesn’t.”³² Likewise, during Judge Merrick Garland’s confirmation hearing in 2021 to become Attorney General, he vowed not to weaponize the Justice Department to target the Biden Administration’s political opponents. In fact, Attorney General Garland promised, “[t]he Department . . . will be under my protection for the purpose of preventing any kind of partisan or other improper motive in making any kind of investigation or prosecution. That’s my vow. That’s the only reason I’m willing to do this job.”³³ However, as the Committees’ investigative work has uncovered, under the leadership of President Biden and Attorney General Garland, the Justice Department has gone to great lengths to circumvent the justice system for President Biden’s son, Hunter Biden, who allegedly sold access to the highest levels of our nation’s government and avoided paying millions of dollars in taxes.³⁴

²⁸ Shapley Interview at 27.

²⁹ *Id.* at 28.

³⁰ See *Hearing on the Fiscal Year 2023 Justice Department Budget Request, Before the Subcomm. on Com., Just., Sci., & Related Agencies of the S. Comm. on Appropriations*, 117th Cong. (2022) (statement of Merrick Garland, Att’y Gen., U.S. Dep’t of Just.) (“[T]he Hunter Biden investigation . . . is being run by and supervised by the United States Attorney for the District of Delaware. . . . [H]e is in charge of that investigation. There will not be interference of any political or improper kind.”).

³¹ Shapley Interview at 28-29.

³² Morgan Chalfant, *Biden, Harris pledge to keep politics out of DOJ*, THE HILL (Dec. 3, 2020).

³³ Jeremy Herb, *Garland vows at confirmation hearing to keep politics out of DOJ while drawing praise*, CNN (Feb. 22, 2021).

³⁴ Editorial, *Hunter Was Selling the Biden ‘Brand’*, WALL ST. J. (July 31, 2023); Josh Christenson and Steven Nelson, *Hunter Biden ducked \$1.2M tax bill over 2017, 2018: IRS whistleblower*, N.Y. POST (June 28, 2023).

I. TESTIMONY SHOWS THAT THE JUSTICE DEPARTMENT AFFORDED PREFERENTIAL TREATMENT TO PRESIDENT BIDEN’S SON.

The fundamental mission of the Justice Department is to uphold the rule of law.³⁵ To do so, the Department has adopted values of integrity and impartiality, promising all Americans that it will enforce federal law “without prejudice or improper influence.”³⁶ The Department’s mission and its values are reflected in the Justice Manual, described as “a set of rules, regulations, [and] procedures that basically provides guidance to Department of Justice personnel.”³⁷ The Justice Manual includes a section specific to the fair and impartial enforcement of federal laws, explaining that uniform enforcement of criminal tax laws is necessary “[t]o achieve maximum deterrence” of tax crimes.³⁸

However, during their respective transcribed interviews with the Committee on Ways and Means, the IRS whistleblowers described dozens of deviations from standard investigative practice by Department officials that afforded Hunter Biden preferential treatment throughout this investigation. In particular, the whistleblowers described how the Department allowed the statute of limitations to lapse, prohibited line investigators from asking about Joe Biden in witness interviews, and notified defense counsel of pending search warrants.³⁹ The whistleblowers’ account of the preferential treatment provided to Hunter Biden has been corroborated by testimony from additional witnesses and by documents provided to the Committees. These deviations from standard investigative practice unfortunately reinforce the perception that the Biden Justice Department is operating a two-tiered system of justice.⁴⁰

A. Witnesses described how the Department deviated from standard operating procedure to afford Hunter Biden special treatment.

Witnesses and documents confirm that the Biden Justice Department has not handled Hunter Biden’s case like any other case. According to Shapley, the criminal tax investigation of the President’s son “has been handled differently than any investigation [he’s] been a part of” throughout his 14-year career at the IRS.⁴¹ Other witnesses with knowledge of the case have since corroborated Shapley’s testimony that the Justice Department treated Hunter Biden’s case differently than other criminal investigations.

During his transcribed interview, Stuart Goldberg, the Acting Deputy Assistant Attorney General for Criminal Matters within the Department’s Tax Division, confirmed whistleblower

³⁵ *About DOJ*, U.S. DEP’T OF JUST., <https://www.justice.gov/about> (last visited Nov. 26, 2023).

³⁶ *Id.*

³⁷ Transcribed Interview of David Weiss, Special Counsel & U.S. Att’y, Dist. of Del., at 63 (Nov. 7, 2023) [hereinafter Weiss Interview].

³⁸ U.S. Dep’t of Just., Just. Manual § 6-4.010 (2023).

³⁹ *See generally* Shapley Interview; Ziegler Interview.

⁴⁰ *Cf. Oversight of the Federal Bureau of Investigation: Hearing Before the H. Comm. on the Judiciary*, 118th Cong., at 2-3 (2023) (statement of Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary) (listing additional examples of the “double standard that exists now in our justice system”).

⁴¹ Shapley Interview at 11.

testimony that the Hunter Biden case received special treatment, as it required “closer supervision,” compared to more “run-of-the-mill cases.”⁴² Goldberg testified:

Q. Was the fact that Hunter Biden was involved here, did that require DOJ Tax’s sign-off because it’s a sensitive matter?

A. Well, without getting into the case, again trying to answer a question at a slightly higher level, there are cases that are sensitive, people—some would say sensitive, sometimes say significant cases. And those cases typically have closer supervision than other, more run-of-the-mill cases.

Q. And if there’s a target of an investigation that has some political significance attached to him or her . . . does that trigger any heightened review process within DOJ Tax?

A. So if something can be termed as sensitive pursuant to the case it might be because it’s a public official or it’s a person that has a noteworthy profile or it’s going to generate a lot of media attention, or might be congressional interest. It could be a corporation or an individual. That might mean that the case would come to my level for ultimate sign-off on the case as opposed to be[ing] handled at the chief’s level.

Q. . . . And is it fair to say that the Hunter Biden case fell into that category?

A. Yes.⁴³

In addition, Goldberg recounted an incident in which U.S. Attorney David Weiss summoned him to attend a meeting in Delaware with prosecutors and Hunter Biden’s defense counsel—something that Goldberg said he had never done before with respect to any U.S. Attorney’s Office.⁴⁴ Goldberg testified:

Q. Did you participate in any meetings in person with the Delaware U.S. Attorney’s Office?

A. Yes.

Q. How many?

A. One.

⁴² Transcribed Interview of Stuart Goldberg, Acting Deputy Assistant Att’y Gen. for Crim. Matters, U.S. Dep’t of Just., Tax Div., at 17 (Oct. 25, 2023) [hereinafter Goldberg Interview].

⁴³ *Id.*

⁴⁴ *Id.* at 25-27.

Q. And when was that?

A. January 2023.

Q. And who was in attendance?

A. The U.S. Attorney.

Q. Mr. Weiss?

A. Yes. Several assistants from his office.

Q. Was Lesley Wolf there?

A. Yes. The lawyers from the Tax Division were there.

Q. Mr. Morgan and Mr. Daly?

A. Yes. And defense counsel representing Mr. Biden.

* * *

Q. Okay. And was it customary for you to attend that type of meeting or did you only attend here because of the significance of the target and the investigation?

A. I attended because Mr. Weiss asked me to come up for the meeting.

Q. Okay. How frequently do you travel to U.S. Attorney's Offices for meetings of that sort? Was that unusual for you to—

A. For me to go to a U.S. Attorney's Office on a case?

Q. Yeah.

A. It's not something that I would commonly do.

Q. Okay. How many times have you done it . . . [i]n your current role?

A. I think it's the only time I've done it.⁴⁵

⁴⁵ *Id.*

Ziegler also explained how the Bidens were afforded special treatment due to being a politically powerful family in Delaware. Ziegler recalled one instance early in the investigation that “caused [him] pause and concern.”⁴⁶ In late 2018, Ziegler sent documentation that would refer the case to the Department’s Tax Division for further investigation up to his manager at the time, Supervisory Special Agent Matt Kutz,⁴⁷ for Kutz’s review. Upon reviewing the package of documents, Kutz told Ziegler that “a political family like this, you have to have more than just an allegation and evidence related to that allegation. In order for this case to move forward, you basically have to show a significant amount of evidence and similar wrongdoing that would basically illustrate a prosecution report.”⁴⁸ Ziegler replied that “we have to treat each taxpayer the same, it shouldn’t matter on their name.”⁴⁹ However, Kutz refused to listen to Ziegler’s concerns, causing Ziegler to lament that Kutz “was [his] manager and [he] had to do what [Kutz] said.”⁵⁰ Ultimately, Ziegler had to draft three versions of the referral package before Kutz approved it for review by the Tax Division.⁵¹

Department and IRS officials expressed obvious concerns over investigating a Biden in Delaware, ultimately leading to the Department’s sensitive approach in handling this case. Ziegler described the challenges associated with investigating the Bidens in Delaware, explaining that “Delaware was in the State in which the subject’s father lived, and the family was extremely well-known throughout the State, including . . . [to] the investigators and prosecutors on the team.”⁵² He testified:

- Q. Okay. Just a question about working with the U.S. Attorney’s Office in Delaware. It seems like the elephant in the room is that – correct me if I’m wrong, but – Joe Biden and anyone in the Biden family is royalty in Delaware. Is that not the case?
- A. It was definitely something that was overly apparent in the State, yes.
- Q. So whether the President is a Republican or a Democrat, if you are in the district of Delaware, and you are in the U.S. Attorney’s Office, and you are trying to bring a case against a family member of Joe Biden, that inherently has its challenges, doesn’t it?
- A. Yes. . . . I think he is someone that’s a big deal within that State.

⁴⁶ Ziegler Interview at 18.

⁴⁷ Shapley was assigned as supervisor of the Hunter Biden investigation in January 2020. Shapley Interview at 12.

⁴⁸ Ziegler Interview at 18-19.

⁴⁹ *Id.* at 19.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at 20.

Q. Right. And so all the nonpolitically-appointed officials in the office certainly could be affected by the fact that we're dealing with Joe Biden, correct? In that office?

A. I went into it with the belief that I would hope that that wouldn't happen. But it being in the Delaware area, it very well could have happened that way.⁵³

Shapley similarly testified that an unidentified FBI case agent in Wilmington "was concerned about the consequences for him and his family" if he had to investigate the Bidens in Delaware.⁵⁴ However, when he sat for his transcribed interview, Delaware U.S. Attorney Weiss would not acknowledge any fear or worry about investigating the President's son in the Biden family's home state of Delaware. Weiss suggested that although there are only "a certain number of practitioners" in the small Delaware legal community, he was not concerned with bringing a case there against the President's son.⁵⁵ Weiss testified:

Q. Would you characterize the Delaware legal community as a small, tight-knit legal community?

A. I would characterize the Delaware community as a small community, yes, for sure.

Q. And, for the most part, all the key players who litigate in Federal court know one another?

A. I think that's fair that folks get to know one another pretty quickly, yes.

Q. . . . Did you ever have any concerns that you were responsible for bringing a case against the President's son and, yet, you're part of this close-knit community?

A. No, I didn't. No. Yes, I just – I just acknowledge that the Delaware, particularly in Federal court – you know, there is only a certain number of practitioners locally –⁵⁶

Testimony obtained by the Committees shows that Hunter Biden received numerous other special privileges throughout the course of the investigation due to his last name. For example, retired FBI Supervisory Special Agent Joe Gordon of the FBI Wilmington Resident Agency testified that FBI headquarters tipped off then-President-elect Biden's transition team of the IRS and FBI investigators' plan to interview Hunter Biden the following day. He explained:

⁵³ *Id.* at 157-58.

⁵⁴ Shapley Interview at 16.

⁵⁵ Weiss Interview at 143-45.

⁵⁶ *Id.* at 143-44.

- Q. Did you also receive information that the transition team was notified as well?
- A. I don't recall that exactly. . . . I know I was upset when I learned about it.
- Q. Why were you upset?
- A. I felt it was people that did not need to know about our intent. I believe that the Secret Service had to be notified for our safety, for lack of confusion, for deconfliction, which we would do in so many other cases, but I didn't understand why the initial notification.⁵⁷

Gordon provided further details on the irregularity of events that occurred the morning investigators were to interview Hunter Biden. Specifically, Gordon elaborated on how one of his superiors ordered them to stand down and not pursue their planned suspect interview of the President's son.⁵⁸ He stated:

- Q. What happened the next day? Did you learn any information given now that Secret Service headquarters knows? . . .
- A. So, obviously, we were on the West Coast. There were additional interviews across the country, to include the East Coast, which was 3 hours ahead. So we were up early. I was partnered with supervisor number two of the IRS. And as we got together or while we got together on that morning, I was notified by my assistant special agent in charge that we would not even be allowed to approach [Hunter Biden's] house; that the plan, as told to us, was that my information would be given to the Secret Service, to whom I don't know exactly . . . with the notification that we would like to talk to Hunter Biden; and that I was not to go near the house and to stand by.
- Q. In your career of 20 years, have you ever been told . . . that you had to wait outside of a target's home until they contacted you?
- A. Not that I recall. I mean, there have been times where we waited for maybe something else operationally to happen, but, no, not from the point of view of the target, the subject of the investigation.

⁵⁷ Gordon Interview at 33.

⁵⁸ *Id.* at 33-35.

* * *

Q. And were you able to interview Hunter Biden . . . as part of your investigation?

A. I was not.⁵⁹

During his interview, Gordon explained how the treatment of Hunter Biden’s interview was vastly different from interviews of other investigative targets. He stated that it is “important” for FBI agents conducting a criminal investigation to be discreet about their intent “to go out and talk with the target of a[n] investigation,” to give themselves “the best opportunity to have a conversation with somebody and not have them influenced in some way” and to prevent targets and witnesses from destroying evidence.⁶⁰ Such a common-sense tactic did not occur in Hunter Biden’s case because FBI headquarters tipped off the Biden presidential transition team about investigators’ plan to interview Hunter Biden.

The whistleblowers also detailed a situation—described by Shapley as “one of the major deviations [from standard operating procedure] in this case”⁶¹—in which one of the prosecutors in Weiss’s office, Assistant U.S. Attorney Lesley Wolf,⁶² prohibited line investigators from looking into incriminating messages involving now-President Biden. In July 2017, Hunter Biden was negotiating a business deal with executives from CEFC China Energy, a now-defunct Chinese conglomerate with close ties to the Chinese Communist Party,⁶³ which has had multiple executives imprisoned for corruption.⁶⁴ On July 30, 2017, Hunter Biden invoked his father in a threatening message to CEFC executive Zhao Runlong (a.k.a. Raymond Zhao).⁶⁵ Hunter Biden wrote:

Z[hao]- Please have the [CEFC] director call me- not James [Biden] or Tony [Bobulinski] or Jim [Bulger]- have him call me tonight. **I am sitting here with my father and we would like to understand why the commitment made has not been fulfilled.** I am very concerned that the [CEFC] Chairman has either changed his mind

⁵⁹ *Id.*

⁶⁰ *Id.* at 25.

⁶¹ *Hearing with IRS Whistleblowers About the Biden Criminal Investigation: Before the H. Comm. on Oversight & Accountability*, 118th Cong., at 19 (2023) (statement of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv.).

⁶² *Id.* at 71 (statement of Joseph Ziegler, Special Agent, Internal Revenue Serv.) (identifying Lesley Wolf as the prosecutor who prevented investigators from obtaining the relevant location data).

⁶³ *See* MAJORITY STAFF OF S. COMM. ON FIN. & S. COMM. ON HOMELAND SEC. & GOVERNMENTAL AFFS., 116TH CONG., HUNTER BIDEN, BURISMA, AND CORRUPTION: THE IMPACT ON U.S. GOVERNMENT POLICY AND RELATED CONCERNS, at 71-75 (2020) (detailing CEFC’s connections to the Chinese Communist Party).

⁶⁴ *See* Press Release, U.S. Att’y’s Off. S. Dist. of N.Y., Patrick Ho, Former Head Of Organization Backed By Chinese Energy Conglomerate, Convicted Of International Bribery, Money Laundering Offenses (Dec. 5, 2018); Shu Zhang & Chen Aizhu, *China’s CEFC founder Ye named in corruption case - state media*, REUTERS (Oct. 12, 2018).

⁶⁵ Jerry Dunleavy, *Hunter Biden invoking ‘my father’ resulted in millions flowing from CCP-linked company*, WASH. EXAM’R (June 28, 2023); Josh Christenson, *Why Hunter Biden angrily threatened his Chinese business associate*, N.Y. POST (June 26, 2023).

and broken our deal without telling me or that he is unaware of the promises and assurances that have been made have not been kept. Tell the director that I would like to resolve this now before it gets out of hand. And now means tonight. And Z[hao] if I get a call or text from anyone involved in this other than you, [CEFC Executive Director] Zhang [Jianjun] or the [CEFC] Chairman **I will make certain that between the man sitting next to me and every person he knows and my ability to forever hold a grudge that you will regret not following my direction.** All too often people mistake kindness for weakness --- and all too often I am standing over top of them saying I warned you. From this moment until whenever he reaches me. It [is] 9:45 AM here and [I] assume 9:45 PM there so his night is running out.⁶⁶

When Zhao responded that he received the message, Hunter Biden reiterated that he was “sitting here waiting for the call with [his] father.”⁶⁷

When IRS investigators discovered Hunter Biden’s message, they asked Wolf if they could obtain location data to determine from where the messages were sent to determine whether Hunter Biden was actually sitting next to his father and establish probable cause for interviewing now-President Biden.⁶⁸ Shapley explained that the message not only constituted evidence of potential tax crimes, but also raised national security and Foreign Agents Registration Act (FARA) concerns as well.⁶⁹ Despite the fact that collecting location data is what investigators “would normally do” in this scenario,⁷⁰ Wolf denied the request.⁷¹ Investigators discovered other incriminating messages Hunter Biden had sent and received,⁷² some of which suggested that now-President Biden was involved in his son’s foreign business ventures.⁷³ According to Shapley, these messages “included material [that investigators] clearly needed to follow up on,” and “made it clear [investigators] needed to search the guest house at the Bidens’ Delaware residence where Hunter Biden stayed for a time.”⁷⁴ However, once again, “prosecutors denied

⁶⁶ Shapley Interview, Ex. 11 (emphasis added).

⁶⁷ *Id.*

⁶⁸ Shapley Interview at 163. *See also Timeline of Hunter Biden Investigation*, EMPOWER OVERSIGHT (last updated Sept. 29, 2023).

⁶⁹ Shapley Interview at 164.

⁷⁰ Ziegler Interview at 105. *See also Hearing with IRS Whistleblowers About the Biden Criminal Investigation: Before the H. Comm. on Oversight & Accountability*, 118th Cong., at 50-51 (2023) (statement of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv.) (“I recall [prosecutors] saying to me that, how do we know that [Joe Biden] is there . . . and then I said well, we would get the location data. So as a part of my normal investigation, that is what I would do.”); *Hearing with IRS Whistleblowers About the Biden Criminal Investigation: Before the H. Comm. on Oversight & Accountability*, 118th Cong., at 65 (2023) (statement of Joseph Ziegler, Special Agent, Internal Revenue Serv.) (“So typically, in that situation, you’d want to get location data, contemporaneous data that would show where that person is at, so that’s what we would typically look to.”).

⁷¹ Shapley Interview at 14, 163, 165; Ziegler Interview at 105-06.

⁷² *See generally* Ziegler Supplemental Production 2, Ex. 300.

⁷³ *E.g.*, Shapley Interview, Ex. 11 (listing a WhatsApp message Hunter Biden sent to another CEFC executive stating, “I can make \$5M in salary at any law firm in America. If you think this is about money it’s not. The Biden’s [sic] are the best I know at doing exactly what the Chairman wants from this partnership[]. Please let’s not quibble over peanuts.”).

⁷⁴ Shapley Interview at 14.

investigators’ requests to develop a strategy to look into the messages and denied investigators’ suggestion to obtain location information to see where the texts were sent from.”⁷⁵

Overall, the testimony from Justice Department, FBI, and IRS officials substantiates the IRS whistleblowers’ prior testimony that the Justice Department’s “sensitive” treatment of Hunter Biden’s case deviated from the normal investigative practices and fell well short of the Department’s mission of impartial justice.

B. FBI bureaucrats impeded the investigation into Hunter Biden by slow-walking investigative action and withholding relevant information.

Witness testimony also highlights how officials in the FBI headquarters worked to slow-walk and stall the Justice Department’s efforts to review the credibility of information related to Ukraine. In late 2019 or early 2020, the Justice Department set up a system to coordinate multiple Department matters related to Ukraine.⁷⁶ As part of this effort, on January 3, 2020, then-Attorney General Bill Barr and then-Deputy Attorney General Jeffrey Rosen gave then-U.S. Attorney for the Western District of Pennsylvania Scott Brady a limited assignment to vet information related to Ukraine coming into the Justice Department, and then to pass credible information along to U.S. Attorneys’ Offices with relevant ongoing grand jury investigations by providing substantive briefings on their findings and recommending next steps.⁷⁷ In his transcribed interview, Brady confirmed to the Committee that “any member of the public” could provide information as part of this intake process, and that his office treated the information the same as all other information provided to the Department.⁷⁸ Brady described his assignment as “an intake and vetting process, kind of akin to a due diligence,”⁷⁹ involving assessing the credibility of information using publicly available resources and pre-existing FBI records.⁸⁰ Brady explained that his office did not have access to grand jury tools such as subpoenaing documents or witnesses.⁸¹

In his transcribed interview, Brady detailed for the Judiciary Committee the “challenging working relationship” he had with the FBI in carrying out his assignment, as well as the FBI’s “reluctance . . . to really do any tasking related to [the] assignment from DAG Rosen and looking into allegations of Ukrainian corruption broadly and then specifically anything that intersected with Hunter Biden and his role in Burisma.”⁸² In particular, challenges arose from FBI

⁷⁵ *Id.*

⁷⁶ Letter from Stephen E. Boyd, Assistant Att’y Gen., U.S. Dep’t of Just., to Rep. Jerrold Nadler, Chairman, H. Comm. on the Judiciary (Feb. 18, 2020).

⁷⁷ Brady Interview at 10-13. *See also* Brady Interview at 35 (“My goal was for us to do our task, our job that we were given by AG Barr, DAG Rosen.”); Brady Interview at 43 (“Q. Okay. So the task that you were given came ultimately from Attorney General Barr. Is that right? A. I believe so, yes.”).

⁷⁸ Brady Interview at 14, 63. *See also* Letter from Stephen E. Boyd, Assistant Att’y Gen., U.S. Dep’t of Just., to Rep. Jerrold Nadler, Chairman, H. Comm. on the Judiciary (Feb. 18, 2020) (“Nor do these procedures grant any individual unique access to the Department. Indeed, any member of the public who has relevant information may contact the Department and make use of its intake process for Ukraine-related matters. . . . All information provided through this process will be treated just like any other information provided to the Department.”).

⁷⁹ Brady Interview at 11.

⁸⁰ *Id.* at 11-12.

⁸¹ *Id.* at 12, 15.

⁸² *Id.* at 37.

headquarters slow-walking the vetting process, which the FBI purportedly did due to the “sensitive nature” of the assignment.⁸³ Brady explained that the FBI required Baltimore Field Office special agents to obtain an unnecessary and unprecedented number of approvals from FBI headquarters to take even the most basic investigative actions.⁸⁴ For instance, while FBI agents working on the type of assessment Brady was conducting are typically required to obtain approval every 30 days to continue working on the assessment, such approval is generally given at the Supervisory Special Agent level.⁸⁵ However, in Brady’s case, FBI agents were required to obtain approval from 17 separate officials, most of whom were at FBI headquarters, every 30 days to continue working on the assessment—something Brady had never seen in his career.⁸⁶ He testified:

Q. Did you get a sense of why the FBI was reluctant to take any action? . . .

A. I don’t know why they were reluctant. I know that, because of what they deemed to be the sensitive nature, and this was sensitive, as it related to Mr. [Hunter] Biden, that there were a lot of steps of approval and a lot of eyes that had to look at things and sign off on any action that the special agents that were doing the day-to-day work and interacting with our team would take.

It was my understanding that FBI Headquarters had to sign off on every assignment, no matter how small or routine, before they could take action, which then just lengthened the amount of time . . . between us asking them to do something and them actually performing it.

Q. And, in your dealings with the FBI, was this level of signoff regular, that the special agent would have to get signoff to take any little investigative action?

A. Not in my experience. In my experience, on most investigations, even sensitive investigations, and/or public corruption investigations, it was usually contained within the field office. . . .

Even something as simple as extending the assessment that we talked about, that requires a renewal every 30 days under the FBI [Domestic Investigations and Operations Guide]. Normally that, either opening or renewal, can be . . . at the

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* at 38. *See generally* FED. BUREAU OF INVESTIGATION, DOMESTIC INVESTIGATIONS AND OPERATIONS GUIDE § 5.6 (2021).

⁸⁶ Brady Interview at 38.

[Supervisory Special Agent] level. In this case, it required 17 different people, including mostly at the headquarters level to sign off on it before the assessment could be extended.

And so, at different times, we were told by the special agents that they had to go pens down sometimes for 2 or 3 weeks at a time before they could re-engage and take additional steps because they were still waiting on, again, someone within the 17 chain signoff to approve.

Q. And had you ever seen a 17-person signoff required by the FBI?

A. Never in my career.⁸⁷

Brady also recounted how officials at FBI headquarters told line agents to withhold information from Brady's office. Brady explained:

Q. Were there any other . . . challenges that you experienced with the FBI?

A. Yes. There was one occasion where we were informed by members of the Pittsburgh FBI team that was conducting this investigation, this vetting process with our U.S. Attorney team in Pittsburgh, that they were told by someone at FBI Headquarters that they were not to affirmatively share information with us but that they were only to share information with us if we asked them a direct question relating to that information, which is not typically how the investigative process goes.

At one point, when we were setting up the entire vetting process, and there was a discussion with the FBI about whether—how, in their administrative process, it should be characterized, and I said: Well let's all sit together around a table and talk this out; could you please share with me your DIOG, which is the FBI's bible for their processes and procedures.

We were told that someone at FBI Headquarters, unknown to me, said: Don't share that with the U.S. Attorney's office, to which I said: I'm a presidentially appointed United States Attorney. We're on the same team, part of the Department of

⁸⁷ *Id.* at 37-38.

Justice. What do you mean you can't share your DIOG with me. They said: That's what we were told, so we can't, sir.⁸⁸

Brady testified that the prohibition on sharing information between FBI Pittsburgh and his office was out of the ordinary and resulted in unnecessary delays in the investigation. He explained:

Q. What was the normal kind of reporting process between your office and FBI Pittsburgh?

A. I mean, on a normal case, it's an iterative process, a collaborative process between agent, investigator, and [Assistant U.S. Attorney] and prosecutor. There's mutuality of information sharing. There's a certain transparency because . . . the goal is to conduct an investigation and make a determination at some point with the agency's recommendation about prosecute, not prosecute. But, even short of that . . . take investigative steps that you discuss and agree on, and you know, to move an investigation forward or to open other avenues, identify potential witnesses, subjects, targets. This was not that dynamic.

Q. And, with the FBI not following the typical investigative process at the direction of FBI headquarters, what did that mean for your assignment in vetting Ukraine-related information?

A. It just meant, as I testified earlier, there were stops and starts. It was sometimes difficult to get full information back from the FBI. Again, as I mentioned, sometimes they had to go pens down while they were awaiting approval from headquarters. There were delays when we were trying to re-interview the [confidential human source] in June of 2020. It was challenging.⁸⁹

This prohibition on information sharing with the U.S. Attorney's Office for the Western District of Pennsylvania had real consequences. Brady informed the Committee that there were "many things" relevant to his investigation that the FBI did not share with his office.⁹⁰ As an example, Brady said that he "was not aware . . . that the FBI was in possession of the Hunter Biden laptop" until it was publicly reported in October 2020.⁹¹ Brady expressed that he was "surprised" to learn this information from a media report because the laptop contained "information relating to Hunter Biden's activities on the board of Burisma in Ukraine, that might have been helpful in our assessment of the information that we were receiving about him" and

⁸⁸ *Id.* at 85.

⁸⁹ *Id.* at 85-86.

⁹⁰ *Id.* at 105.

⁹¹ *Id.*

that Brady “would have expected that be shared” with his office.⁹² Brady also noted that his whole team working on the Ukraine-related information assignment was surprised that the FBI did not inform them of the laptop.⁹³

The FBI also tried to prevent Brady from learning more about allegations that the Biden family had received bribes in connection with then-Vice President Biden’s official actions. Notably, the bribery allegations were not even discovered until Brady’s office located an FBI document memorializing a report from a confidential human source (CHS), known as an FD-1023, referencing Hunter Biden’s lucrative position on Burisma’s board that the FBI “had not . . . looked into or developed any further.”⁹⁴ Former Attorney General Bill Barr stated during a media interview that the information Brady’s office developed “had been overlooked by the FBI.”⁹⁵ Brady attempted to get the FBI to re-interview the CHS who had produced the original report to further develop information relevant to his assignment.⁹⁶ Brady told the Committee that the FBI also initially resisted his efforts to re-interview the CHS after the discovery of the FD-1023, though it eventually relented and allowed the interview to proceed.⁹⁷

The subsequent interview of the CHS—whom the FBI considered “highly credible” and had previously used in multiple investigative matters⁹⁸—resulted in the creation of another FD-1023 on June 30, 2020, this time containing information implicating then-Vice President Biden in a multimillion-dollar bribery scheme. As memorialized in this FD-1023, during a meeting in late 2015 or early 2016, an executive from the Ukrainian natural gas company Burisma told the CHS that Burisma had hired Hunter Biden to “protect us, through his dad, from all kinds of problems.”⁹⁹ In another meeting in 2016, Burisma founder and owner Mykola Zlochevsky, whom State Department officials considered to be a corrupt, “odious oligarch,”¹⁰⁰ told the CHS that “it cost 5 (million) to pay one Biden, and 5 (million) to [pay] another Biden.”¹⁰¹ The CHS said it was unclear whether Zlochevsky had already made these payments to the Bidens.¹⁰² When the CHS recommended firing Hunter Biden, Zlochevsky mentioned that he needed to keep Hunter Biden on the board of directors “so everything will be okay.”¹⁰³ The CHS then asked Zlochevsky whether Hunter Biden or Joe Biden told him he should retain Hunter Biden, to which

⁹² *Id.* See also *id.* at 157 (“Q. . . . Were you surprised that you didn't know about the existence of this laptop? A. Yes.”).

⁹³ *Id.* at 159.

⁹⁴ *Id.* at 90.

⁹⁵ *Fox News Sunday* (Fox News television broadcast June 11, 2023).

⁹⁶ Brady Interview at 91

⁹⁷ See *id.* (describing the FBI’s “reluctance” and “resistance” to re-interviewing the CHS).

⁹⁸ *Id.* at 19-20. Brady further confirmed that the information contained in the 1023 at issue did not come from Rudy Giuliani or any known sources of Russian disinformation. See *id.* at 96 (“[T]hat was already communicated to [Weiss’s] office, that the 1023 was from a credible CHS that had a history with the FBI, and that it was not derived from any of the information from Mr. Giuliani.”); *id.* at 103 (“[Attorney] General Barr’s statements are all accurate, including his statement that the information contained in the 1023 was not derived from any Giuliani-related information and are not from . . . known sources of Russian disinformation.”).

⁹⁹ FBI Form FD-1023 re Confidential Human Source’s Meetings with Burisma Executives, at 1 (June 30, 2020).

¹⁰⁰ MAJORITY STAFF OF S. COMM. ON FIN. & S. COMM. ON HOMELAND SEC. & GOVERNMENTAL AFFS., 116TH CONG., HUNTER BIDEN, BURISMA, AND CORRUPTION: THE IMPACT ON U.S. GOVERNMENT POLICY AND RELATED CONCERNS, at 23-25 (2020).

¹⁰¹ FBI Form FD-1023 re Confidential Human Source’s Meetings with Burisma Executives, at 2 (June 30, 2020).

¹⁰² *Id.*

¹⁰³ *Id.*

Zlochevsky replied that “[t]hey both did.”¹⁰⁴ When the CHS brought up the issue of the Ukrainian Prosecutor General’s investigation of Burisma, Zlochevsky said that the investigation “will go away anyway,” and that it was “too late to change his decision” regarding how to deal with the investigation, which the CHS understood “to mean that Zlochevsky had already . . . paid the Bidens, presumably to deal with [the Prosecutor General].”¹⁰⁵ Zlochevsky later informed the CHS that “he didn’t want to pay the Bidens and he was pushed to pay them.”¹⁰⁶ During a subsequent phone call in 2019, Zlochevsky told the CHS that he did not send any funds directly to the “Big Guy”—“which CHS understood was a reference to Joe Biden”—and that it would take investigators ten years to find the records of illicit payments to now-President Biden due to the vast number of companies and bank accounts Zlochevsky controls.¹⁰⁷

The FBI’s reluctance to cooperate with Brady’s assignment added further delays to the process of vetting Ukraine-related information coming into the Justice Department.¹⁰⁸ Ultimately, Brady had no choice but to seek help from the Deputy Attorney General’s office “at least five or six times on a myriad of different issues” to get the FBI to follow the typical investigative process and stop hindering the assignment.¹⁰⁹ According to Brady, FBI orders related to “information sharing, not sharing, approvals, [and] delays” were issued from “somewhere in FBI Headquarters below the Deputy Director.”¹¹⁰ Brady explained that while the “choke point” in the information sharing was somewhere within FBI headquarters, he had no visibility into where exactly it originated.¹¹¹

Simply put, the FBI and officials in headquarters slow-walked taking necessary investigative actions and sharing relevant information that could have helped prosecutors gather evidence in the case against Hunter Biden. This lack of transparency and reluctance to take action due to sensitivities around the case ultimately benefited Hunter Biden.

C. Senior officials in the Delaware U.S. Attorney’s Office attempted to avoid learning information that could implicate President Biden in criminal activity.

The Committees have obtained information showing that the U.S. Attorney’s Office for the District of Delaware under the leadership of David Weiss also deviated from standard operating procedure to the benefit of Hunter Biden. Although Weiss was initially appointed by President Trump, he was recommended for the position by Delaware’s two Democratic senators, Tom Carper and Chris Coons.¹¹² In 2021, the Biden Administration asked Weiss to stay on as

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* (internal quotation marks omitted).

¹⁰⁶ *Id.* (internal quotation marks omitted).

¹⁰⁷ *Id.* at 3.

¹⁰⁸ Brady Interview at 38, 41, 86, 187.

¹⁰⁹ *Id.* at 39.

¹¹⁰ *Id.* at 87.

¹¹¹ *Id.* at 40.

¹¹² Josephine Peterson, *David Weiss sworn in as Delaware U.S. Attorney*, NEWS J. (Feb. 23, 2018). President Trump also appointed Judge Maryellen Noreika, who would later oversee the hearing on the sweetheart plea deal Weiss offered to Hunter Biden, despite the fact that she was a registered Democrat, because she had been recommended by Senators Carper and Coons. See *Maryellen Noreika – Nominee for the U.S. District Court for the District of Delaware*, VETTING ROOM (Feb. 5, 2018); Press Release, Sen. Chris Coons, Carper, Coons’ Judicial Candidates

U.S. Attorney.¹¹³ Weiss had previously been appointed as interim U.S. Attorney in Delaware during the Obama Administration,¹¹⁴ and had “often” worked with Hunter Biden’s brother, Beau Biden, during Beau Biden’s tenure as Attorney General of Delaware.¹¹⁵ While Weiss was registered as a Republican, Assistant U.S. Attorney Lesley Wolf, who played a central role in the Hunter Biden investigation, had donated to Democrat campaigns.¹¹⁶ In a state dominated politically by the Biden family, these facts are not insignificant.

According to former U.S. Attorney Scott Brady, it was “regularly a challenge to interact with” the U.S. Attorney’s Office for the District of Delaware.¹¹⁷ Brady testified that communication “became problematic at different points” between his office and Weiss’s office.¹¹⁸ There were times when Brady and Weiss would have to get involved directly to attempt to resolve communication issues between their offices.¹¹⁹ Brady testified:

Q. Did you have any issues developing a channel of communication initially with the Delaware U.S. Attorney’s Office?

A. Yes.

Q. And could you talk to us about that?

A. Speaking generally, from a process perspective, I think there was both a skepticism of the information that we were developing, that we had received, and skepticism and then weariness of that information. I think they were very concerned about any information sharing with our office.

It became problematic at different points, which required Mr. Weiss and me to get involved and level set, as it were, but it was regularly a challenge to interact with the investigative team from Delaware.¹²⁰

Nominated for U.S. District Court Bench: White House nominates Maryellen Noreika and Colm Connolly for bench positions (Dec. 21, 2017).

¹¹³ See Weiss Interview at 11.

¹¹⁴ *Meet the U.S. Attorney: David C. Weiss*, U.S. DEP’T OF JUST. (Feb. 5, 2020); Andrew C. McCarthy, Opinion, *Garland does the Bidens no favor by dodging a special counsel appointment*, THE HILL (Apr. 28, 2022).

¹¹⁵ Michael Kranish, *Before investigating Hunter Biden, prosecutor worked with brother Beau*, WASH. POST (Aug. 20, 2023).

¹¹⁶ Michael Ginsberg, *Meet The US Attorney Who Allegedly Covered For Hunter Biden*, DAILY CALLER (June 28, 2023).

¹¹⁷ Brady Interview at 29.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 29-30.

Brady testified that in his experience, U.S. Attorney's Offices are generally "fairly clear and transparent" with each other, "even on sensitive matters."¹²¹ He called the communication issues with Weiss's office "unusual."¹²²

Brady explained that his team merely wanted "to understand what [Weiss's team] had looked at, what they had not looked at to make sure we weren't . . . duplicating efforts, stepping on toes, doing anything that would in any way complicate their lives and their investigation."¹²³ Despite their best efforts to communicate with Weiss's team, Brady stated that the relationship between their offices became "problematic."¹²⁴ When asked why he thought the relationship deteriorated, Brady explained:

I don't want to speculate as to why, but I know that there was no information sharing back to us And, at one point, the communication between our offices was so constricted that we had to provide written questions to the investigative team in Delaware, almost in the form of interrogatories, and receive written answers back.¹²⁵

Brady further elaborated on the stilted relationship between the two offices, stating:

Q. Now, also, based on what you said, throughout the process, you said that the Delaware U.S. Attorney's Office wasn't willing to cooperate, so much so that you had to send interrogatories?

A. Yes, we had conversations, asked for communication and a flow of information, mostly one way from us to them, but also, as I testified, we wanted to make sure we weren't duplicating what they were doing. They would not engage. And so finally, after me calling Mr. Weiss and saying can you please talk to your team, this is important, this is why we want to interact with them, the response that we got back is you can submit your questions to our team in written form, which we did.

Q. And that was unusual?

A. I had never seen it before.¹²⁶

¹²¹ *Id.* at 31.

¹²² *Id.*

¹²³ *Id.* at 37.

¹²⁴ *Id.* at 29.

¹²⁵ *Id.* at 30.

¹²⁶ *Id.* at 156-57.

The “unusual” communication issues that Brady had with Weiss’s office were only magnified when Brady’s team sought to pass the information from the June 30, 2020 FD-1023, containing allegations that then-Vice President Joe Biden and Hunter Biden each received a \$5 million bribe from a Ukrainian oligarch, off to Weiss’s team—who had an existing grand jury investigation into Hunter Biden.¹²⁷ Brady recalled that he asked multiple times to brief the Delaware U.S. Attorney’s Office on details of the FD-1023.¹²⁸ Brady testified that he ultimately had to seek assistance from the Deputy Attorney General’s office to resolve the reluctance from Weiss’s office to take the briefing.¹²⁹ The intervention from the Deputy Attorney General’s office resulted in Main Justice ordering Weiss’s office to cooperate with Brady’s office and receive the briefing.¹³⁰

During his interview with the Judiciary Committee, Brady walked through paragraphs of Shapley’s supplemental disclosure statement that detailed what occurred behind the scenes prior to the briefing that Brady’s team provided to Weiss’s team about the FD-1023. Brady testified:

Q. So, looking at paragraph four on page 2 [of Shapley’s September 20, 2023 statement] as it continues onto page 2, the second full sentence, it says: The prosecution team discussed the Hunter Biden related work of the Pittsburgh USAO on several occasions, as it was a line item on the recurring prosecution team’s call agenda for a long period of time. Assistant U.S. Attorney Lesley Wolf told us the Pittsburgh USAO and U.S. Attorney Scott Brady requested to brief the Delaware USAO’s Hunter Biden’s investigative team on multiple occasions, but they were turned down by AUSA Wolf and the Delaware USAO. Is it accurate that you had requested multiple times, you or your office, to brief the Delaware U.S. Attorney’s Office?

A. Yes.

* * *

Q. And were you ever told that the Delaware U.S. Attorney’s Office did not want a briefing from your office?

A. I believe I was. I don’t remember. But I know that we had trouble scheduling it.

Q. Okay. And then, further down, it states AUSA Wolf’s comments made clear she did not want to cooperate with the

¹²⁷ *Id.* at 20-21, 95-97.

¹²⁸ *Id.* at 95.

¹²⁹ *Id.* at 97.

¹³⁰ Shapley Supplemental Production 3, Attachment 6 (“Pittsburgh read out on their investigation was ordered to be received by this prosecution team by the P[A]DAG.”).

Pittsburgh USAO, and that she had already concluded no information from that office could be credible stating her belief that it all came from Rudy Giuliani.

Were you ever made aware of Ms. Wolf's processing and decisions regarding this briefing, and why she didn't want the briefing?

A. I was not. We did, however, make it clear that some of the information including this 1023 did not come from Mr. Giuliani.¹³¹

* * *

Q. [Shapley's statement] states, on the October 22, 2020, prosecution team call, AUSA Wolf informed us that because the Delaware U.S. Attorney's Office had been ordered by the principal deputy attorney general at Justice Department headquarters to receive the briefing from the Pittsburgh USAO, it would be happening the next day, October 23, 2020.

Does that match your recollection of how things went down, the PADAG communication?

A. I didn't have specific knowledge that that was what happened between the PADAG and the Delaware U.S. Attorney's Office until I saw Mr. Shapley's testimony.

Q. Did you bring this concern that the USAO in Delaware was not wanting a briefing from you? Did you bring that concern to the PADAG?

A. I'm sure I did.¹³²

Brady testified that ultimately his office passed the FD-1023 along to Weiss's office for "further analysis or investigation" and "made specific[] recommendations."¹³³ But, as he stated, "that was the end of our tasking."¹³⁴

The opposition expressed by the Delaware USAO to receiving credible information from Brady's office was just the starting point of their reluctance to engage on matters involving Hunter Biden. As their work continued on the investigation, Weiss's team would further deviate

¹³¹ Brady Interview at 94-96.

¹³² *Id.* at 97.

¹³³ *Id.* at 99.

¹³⁴ *Id.*

from standard investigative practices to shield Hunter Biden and the Biden family from close scrutiny.

D. The Delaware U.S. Attorney’s Office continually sought to keep the Biden name out of the investigation.

Throughout the investigation, Weiss’s team in the Delaware USAO hindered and handicapped the criminal investigation into Hunter Biden. One of the ways that Weiss’s team did this was by keeping the Biden name out of the investigation. Shapley testified that prosecutors wanted to go as far as removing Hunter Biden’s name from “electronic search warrants, 2703(d) orders, and document requests” based on what they thought would get approved.¹³⁵ Ziegler corroborated this statement, recalling an instance in which he told prosecutors on a team call that he was uncomfortable removing Hunter Biden’s name from any documents “just based on what might or might not get approved,” and that he thought doing so was “unethical.”¹³⁶

Documents produced to the Ways and Means Committee further evidence the desire of Weiss’s team to shield the Bidens from scrutiny. On August 7, 2020, Lesley Wolf, Weiss’s top prosecutor on the case, told the investigative team, “As a priority, someone needs to redraft attachment B There should be nothing about Political Figure 1 in here.”¹³⁷

EXHIBIT 202

From: Wolf, Lesley (USADE) [REDACTED]
Sent: Friday, August 07, 2020 7:41 PM
To: Wilson, Joshua J. (BA) (FBI); Hudson, Carly (USADE)
Cc: Roepcke, Susan C. (BA) (FBI); Hoffman, Michelle A. (BA) (FBI); Ziegler Joseph A; Gordon, Joseph P. (BA) (FBI)
Subject: RE: BS SW Draft

As a priority, someone needs to redraft attachment B. I am not sure what this is cut and pasted from but other than the attribution, location and identity stuff at the end, none if it is appropriate and within the scope of this warrant. Please focus on FARA evidence only. There should be nothing about Political Figure 1 in here.

Thanks.

The attachment referenced by Wolf included terms for a search warrant for records related to Hunter Biden. The warrant defined “POLITICAL FIGURE 1” as “FORMER VICE PRESIDENT JOSEPH ROBINETTE BIDEN JR.”¹³⁸

¹³⁵ Shapley Interview at 15.

¹³⁶ Ziegler Interview at 25-26.

¹³⁷ Ziegler Supplemental Production 2, Ex. 202.

¹³⁸ Ziegler Supplemental Production 2, Ex. 203.

18. POLITICAL FIGURE 1 - FORMER VICE PRESIDENT JOSEPH

ROBINETTE BIDEN JR. - VP BIDEN is currently the Democratic Party Presidential candidate for the United States and served as the 47th officeholder for the position of the Office of the Vice President of the United States (VPOTUS) in the Barack Obama Administration from January 20, 2009 to January 20, 2017. He is the father of SUBJECT 1.

Other information suggests that Justice Department prosecutors prevented investigators from taking ordinary investigative steps. During a prosecution team call on September 3, 2020, Wolf stated that there was “no way” the team could get the approval to obtain a search warrant for the Delaware guest house of then-presidential candidate Joe Biden, where Hunter Biden frequently stayed, despite acknowledging that “there was more than enough probable cause for the physical search warrant there” and “a lot of evidence in [the] investigation would be found” there.¹³⁹ Shapley understood Wolf’s claim that the search request would not be approved to be an “excuse” Wolf “hid[] behind” to not even attempt to get it approved.¹⁴⁰ Wolf continued that the question of whether to search then-candidate Joe Biden’s guest house “was whether the juice was worth the squeeze” and that “optics were a driving factor in the decision on whether to execute a search warrant.”¹⁴¹ On October 22, 2020, Wolf informed the prosecution team that U.S. Attorney Weiss agreed that there was probable cause to search the residence, but that they would not be pursuing a search warrant nonetheless.¹⁴² Shapley and Ziegler both testified that they have never heard a prosecutor say that optics were a driving factor in deciding whether to execute a search warrant.¹⁴³

In December 2020, Wolf even went so far as to alert Hunter Biden’s defense attorneys about an impending search warrant for a storage unit owned by Hunter Biden.¹⁴⁴ On December

¹³⁹ Shapley Interview at 14-15.

¹⁴⁰ *Id.* at 114.

¹⁴¹ *Id.* at 14-15.

¹⁴² Shapley Supplemental Production 3, Attachment 6.

¹⁴³ *Hearing with IRS Whistleblowers About the Biden Criminal Investigation: Before the H. Comm. on Oversight and Accountability*, 118th Cong. (July 19, 2023) (statements of Gary Shapley and Joseph Ziegler).

¹⁴⁴ Shapley Interview at 21, 114-15; Ziegler Interview at 26-27, 120.

8, 2020, Ziegler drafted an affidavit in support of the search warrant for the storage unit.¹⁴⁵ Three days later, on December 11, Ziegler and Wolf had a phone call during which they disagreed about the plan to search the storage unit, with Wolf claiming that “she was worried about what this [search] might do to the relationship with the opposing counsel moving forward,” and that she would prefer to use a different method¹⁴⁶ to obtain the documents in the storage unit.¹⁴⁷ Ziegler pointed out that Wolf’s suggestion “affords [Hunter Biden] the opportunity to ‘decide’ what to turn[]over,” and that “in any other case, this wouldn’t be the normal course of action that they might take and that [prosecutors] are deviating now.”¹⁴⁸ Shortly thereafter, Wolf decided not to pursue the search warrant for the storage unit.¹⁴⁹ On December 14, Shapley and IRS Special Agent in Charge Kelly Jackson called Weiss to discuss searching the storage unit and Weiss agreed that they could proceed with obtaining a search warrant if no one accessed the unit for 30 days.¹⁵⁰ Within an hour of the call with Weiss, however, Shapley learned that Wolf and Tax Division Senior Litigation Counsel Mark Daly had informed Hunter Biden’s defense counsel about investigators’ plan to search the storage unit, thereby “ruining [investigators’] chance to get to evidence before being destroyed, manipulated, or concealed.”¹⁵¹ Investigators were ultimately unable to search the storage unit.¹⁵²

Ziegler described Wolf’s actions in obstructing the search of the storage unit as “a defining moment for [him] in the investigation” where he realized that “the Delaware U.S. Attorney’s Office was providing preferential treatment to [Hunter Biden] and his counsel,” and was “not following the normal investigative process.”¹⁵³ Shapley similarly noted that Wolf’s actions deviated from the norm, testifying that “there’s no prosecutor [he’s] ever worked with that wouldn’t say, go get those documents.”¹⁵⁴ Shapley and Ziegler were not the only ones upset with these actions, as IRS Special Agent in Charge Kelly Jackson also expressed “frustration” with the Delaware USAO for “not allowing [the IRS] to go forth with the [search warrant].”¹⁵⁵

Other information available to the Committees shows that Justice Department prosecutors prohibited the investigative team from asking about or referencing President Biden during witness interviews,¹⁵⁶ even though President Biden was often mentioned in Hunter Biden’s communications about his business ventures.¹⁵⁷ In addition, prosecutors also delayed

¹⁴⁵ Ziegler Interview at 26.

¹⁴⁶ Ziegler redacted the method Wolf suggested for obtaining the documents in the storage unit.

¹⁴⁷ Ziegler Supplemental Production 2, Ex. 205.

¹⁴⁸ *Id.*

¹⁴⁹ Ziegler Interview at 27.

¹⁵⁰ Shapley Interview at 21.

¹⁵¹ *Id.*

¹⁵² Ziegler Supplemental Affidavit 2, at 2.

¹⁵³ *Id.*

¹⁵⁴ Shapley Interview at 115.

¹⁵⁵ Shapley Supplemental Production 3, Attachment 11.

¹⁵⁶ Shapley Interview at 18. *See also id.* at 119 (“There were multiple times where Lesley Wolf said that she didn’t want to ask questions about dad. And dad was kind of how we referred to him. We referred to Hunter Biden’s father, you know, as dad.”).

¹⁵⁷ *See, e.g.,* Michael Goodwin, *Hunter biz partner confirms email, details Joe Biden’s push to make millions from China: Goodwin*, N.Y. POST (Oct. 22, 2020) (quoting Hunter Biden’s former business partner Tony Bobulinski as stating, “The reference to ‘the Big Guy’ in the much publicized May 13, 2017 email is in fact a reference to Joe Biden. . . . Hunter Biden called his dad ‘the Big Guy’ or ‘my Chairman,’ and frequently referenced asking him for his sign-off or advice on various potential deals that we were discussing.”).

investigators from conducting planned witness interviews. In an email sent on September 9, 2021, Wolf wrote to Ziegler, “I do not think that you are going to be able to do these interviews [with alleged escorts] as planned.”¹⁵⁸ Ziegler explained that he “didn’t understand why DOJ-Tax management was needing to approve this,” and that it “was not normal process and [he] ha[s] never had a case where DOJ-Tax management weighed in on low level, general interviews and records requests.”¹⁵⁹ Ziegler’s frustrations with the Department’s constant roadblocks led him to lament that he was “sick of fighting to do what’s right.”¹⁶⁰

The next month, in October 2021, Wolf went further and prohibited investigators from interviewing Hunter Biden’s adult children.¹⁶¹ After investigators determined that Hunter Biden deducted from his taxes nondeductible payments he made to his children for personal expenses,¹⁶² Wolf told investigators they would be in “hot water” if they interviewed “the President’s grandchildren.”¹⁶³ Ziegler described Wolf’s response as “completely abnormal,” explaining that it is “a completely reasonable step” and “part of [the] normal process” for investigators to interview “people who are receiving money or receiving payments related to a case like this.”¹⁶⁴ Wolf similarly prevented investigators from interviewing other members of the Biden family who received payments from Hunter Biden that he had deducted from his taxes.¹⁶⁵

Not only were Justice Department prosecutors quick to limit or outright prohibit the use of the Biden name, they also impeded investigations into all of Hunter Biden’s alleged criminal conduct. According to testimony from Shapley, and further corroborated by documents produced to the Ways and Means Committee, Wolf stated on a May 2021 prosecution team conference call that she did not want any of the agents to look into potential campaign finance violations.¹⁶⁶ Instead, Wolf tried to explain away the need to look into the violations, citing “a need to focus on the 2014 tax year, that we cannot yet prove an allegation beyond a reasonable doubt and that she does not want to include [DOJ’s] Public Integrity unit because they would take authority away from her.”¹⁶⁷

¹⁵⁸ Ziegler Supplemental Production 2, Ex. 208. *See also* Ziegler Supplemental Affidavit 2, at 3.

¹⁵⁹ Ziegler Supplemental Affidavit 2, at 3.

¹⁶⁰ Ziegler Supplemental Production 2, Ex. 209. *See also* Ziegler Supplemental Affidavit 2, at 3.

¹⁶¹ Shapley Interview at 22; Ziegler Interview at 32, 129.

¹⁶² Ziegler Interview at 32. Shapley added that “[p]art of what [investigators] examined were charges made with Hunter Biden’s card that might conceivably have been done by his children.” Shapley Interview at 22.

¹⁶³ Shapley Interview at 22; Ziegler Interview at 32, 52.

¹⁶⁴ Ziegler Interview at 32, 130. *See also* *Hearing with IRS Whistleblowers About the Biden Criminal Investigation: Before the H. Comm. on Oversight and Accountability*, 118th Cong. (July 19, 2023) (written testimony of Joseph Ziegler, Special Agent, Internal Revenue Serv.) (stating that Wolf’s response “was abnormal and a deviation from normal procedure”).

¹⁶⁵ Ziegler Interview at 53.

¹⁶⁶ Shapley Supplemental Production 3, Attachment 14.

¹⁶⁷ Shapley Interview at 22.

Results & Challenges: (empirical results - for example, SCIs initiated, indictments, seizures, and significant challenges/obstacles)

At this point in time, evidence obtained to date supports a prosecution recommendation for DOE that he willfully evaded the assessment and payment of Federal income taxes due and owing. This investigation has been hampered and slowed by claims of potential election meddling. Even after the election, the day of action was delayed more than two weeks. The FBI is a participating agency and they have provided conflicting opinions on investigative decisions. FBI is actively investigating potential [REDACTED] violations. Through interviews and review of evidence obtained via [REDACTED] and search warrant, it appears there may be campaign finance criminal violations. AUSA Wolf stated on the last prosecution team meeting that she did not want any of the agents to look into the allegation. She cited a need to focus on the 2014 tax year, that we cannot yet prove the allegation beyond a reasonable doubt and that she does not want to include their Public Integrity unit because they would take authority away from her. We do not agree with her obstruction on this matter. The assigned AUSA does not like dissenting opinions. The USAO and FBI received congressional inquiries concerning this investigation and it's believed they have ignored their requests. We continue to offer resources to complete outstanding investigative tasks but the AUSA prefers to continue to delay tasks to a later date.

However, as Shapley told Congress, the line investigators “d[id] not agree with [Wolf’s] obstruction on this matter.”¹⁶⁸ IRS Director of Field Operations Michael Batdorf corroborated Shapley’s testimony, noting that his investigators expressed concerns about Wolf stonewalling their efforts to interview witnesses, which required approval from Weiss’s team.¹⁶⁹

Testimony from FBI officials further underscored the allegation that prosecutors on Weiss’s team were stonewalling the investigation and “slow-walking” the case.¹⁷⁰ Sobocinski described his frustration with the pace of the investigation multiple times, testifying that his goal was to get the case to a “resolution.”¹⁷¹ He also stated he “would have liked [the investigation] to move faster.”¹⁷² Holley likewise expressed “overall frustration” about the slow pace of the investigative process.¹⁷³ Additionally, Gordon noted that prior to their attempt to interview Hunter Biden, investigators were told they “would not even be allowed to approach [Hunter Biden’s] house” and that instead, Gordon’s name and contact information would be given to the Secret Service along with a note that investigators would like to interview Hunter Biden.¹⁷⁴ Gordon averred that this was the first time in his twenty-year career at the FBI that he had been told to wait outside a target’s home until the target contacts him.¹⁷⁵

Documents and testimony obtained by the Committees to date corroborate the whistleblowers’ account of the constant roadblocks they encountered to properly investigate the case on Hunter Biden. Overall, the evidence indicates that Weiss’s prosecutors at the Delaware

¹⁶⁸ Shapley Supplemental Production 3, Attachment 14.

¹⁶⁹ Transcribed Interview of Michael Batdorf, Dir. of Field Ops., Internal Revenue Serv., at 60-61 (Sept. 12, 2023) [hereinafter Batdorf Interview].

¹⁷⁰ See Shapley Interview at 13 (“It was apparent that DOJ was purposely slow-walking investigative actions in this matter.”); Ziegler Interview at 92 (“As far as my leadership goes, we’re trying to point out that the slow-walking and the approvals for everything, a lot of that happened at the U.S. Attorney’s Office in Delaware and DOJ Tax level.”).

¹⁷¹ E.g., Transcribed Interview of Thomas Sobocinski, Special Agent in Charge, Balt. Field Off., Fed. Bureau of Investigation, at 34 (Sept. 7, 2023) [hereinafter Sobocinski Interview].

¹⁷² *Id.* at 99.

¹⁷³ Transcribed Interview of Ryeshia Holley, Assistant Special Agent in Charge, Balt. Field Off., Fed. Bureau of Investigation, at 104 (Sept. 11, 2023) [hereinafter Holley Interview].

¹⁷⁴ Gordon Interview at 34.

¹⁷⁵ *Id.* at 34.

U.S. Attorney’s Office provided special treatment to the Biden family that it would not have provided any other American in any other investigation.

E. Prosecutors in Weiss’s office allowed the statute of limitations for some of Hunter Biden’s most serious crimes to lapse.

As Shapley and Ziegler described in their testimony to Congress, the possible felony charges against Hunter Biden for the 2014 and 2015 tax years involved “the most substantive criminal conduct.”¹⁷⁶ Those tax years involved income from Hunter Biden’s position on the board of directors of Burisma Holdings, and most importantly, connected Joe Biden’s actions as Vice President to his son’s alleged criminal conduct.

Hunter Biden served on the board of directors of Burisma from April 2014 until April 2019.¹⁷⁷ During Hunter Biden’s tenure, Burisma paid him up to \$1 million annually, though it cut his salary two months after his father left office.¹⁷⁸ While Hunter Biden served on the board, Burisma and its founder and owner, Mykola Zlochevsky, were under investigation by the Ukrainian government.¹⁷⁹ According to one Burisma executive, Burisma hired Hunter Biden specifically to “protect us, through his dad, from all kinds of problems.”¹⁸⁰ Burisma executives explicitly asked Hunter Biden to help alleviate the “government pressure from Ukrainian Government investigations into Mykola, et cetera.”¹⁸¹ In response, Hunter Biden “called D.C.”¹⁸² The Ukrainian government soon fired the investigating Prosecutor General, Viktor Shokin, “after then-Vice President Joe Biden threatened to pull \$1 billion in U.S. aid” earmarked for Ukraine if Shokin remained in office.¹⁸³ Notably, then-Vice President Biden unilaterally decided to change U.S. policy regarding the loan during a plane ride to Ukraine.¹⁸⁴

According to evidence discovered by IRS investigators, one way in which Hunter Biden evaded paying taxes on his income from Burisma was by having it sent to the bank account of a company he co-owned with his business partner and then distributing the money to himself while falsely telling the IRS that the distribution was a nontaxable loan.¹⁸⁵ Shapley explained that this was a “textbook” affirmative scheme by Hunter Biden to avoid paying taxes.¹⁸⁶ In basic terms, as Ziegler put it, “you can’t loan yourself your own money. It just doesn’t make any sense.”¹⁸⁷

¹⁷⁶ Shapley Interview at 25.

¹⁷⁷ Kenneth P. Vogel & Iuliia Mendel, *Biden faces conflict of interest questions that are being promoted by Trump and Allies*, N.Y. TIMES (May 1, 2019).

¹⁷⁸ Miranda Devine, *Hunter Biden’s Ukraine salary was cut two months after Joe Biden left office*, N.Y. POST (May 26, 2021).

¹⁷⁹ STAFF REPORT, S. COMM. ON HOMELAND SEC. & GOVERNMENTAL AFFS. & S. COMM. ON FIN., HUNTER BIDEN, BURISMA, AND CORRUPTION: THE IMPACT ON U.S. GOVERNMENT POLICY AND RELATED CONCERNS, at 8 (2020).

¹⁸⁰ FBI Form FD-1023 re Confidential Human Source’s Meetings with Burisma Executives, at 1 (June 30, 2020).

¹⁸¹ Transcribed Interview of Devon Archer, at 34 (July 31, 2023).

¹⁸² *Id.* at 36.

¹⁸³ Steven Nelson, *Ukrainian prosecutor whose ouster Biden pushed was ‘threatened,’ says Devon Archer*, N.Y. POST (Aug. 4, 2023).

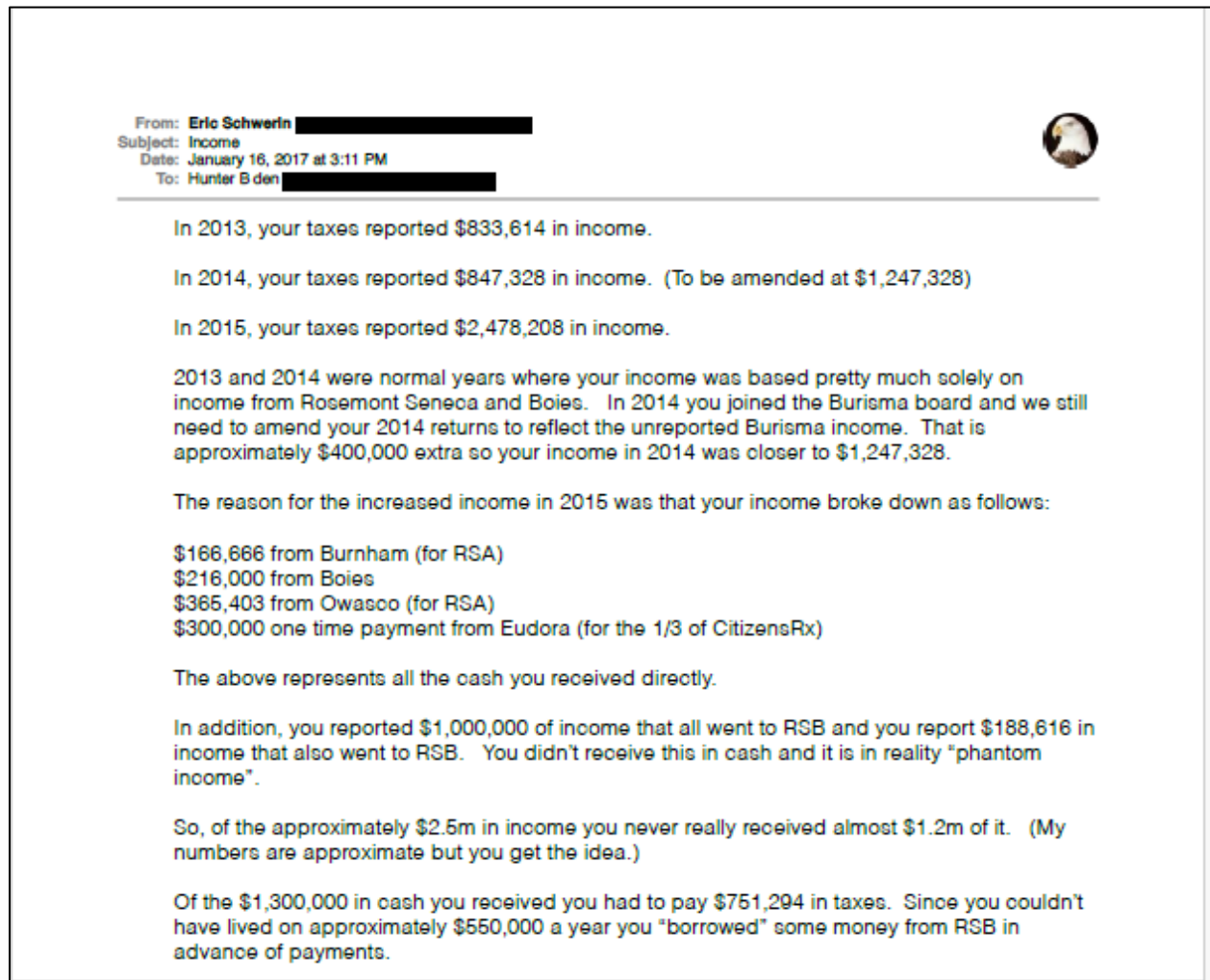
¹⁸⁴ Glenn Kessler, *Inside VP Biden’s linking of a loan to a Ukraine prosecutor’s ouster*, WASH. POST (Sept. 15, 2023).

¹⁸⁵ Shapley Interview at 57-59; Ziegler Interview at 64-66

¹⁸⁶ Shapley Interview at 58-59.

¹⁸⁷ Ziegler Interview at 66-67.

Notably, with respect to this particular scheme, IRS investigators could find no evidence typically needed to verify that a given payment is, in fact, a loan.¹⁸⁸ However, when Shapley informed Tax Division trial attorney Jack Morgan that there was no such evidence, Morgan replied that “this is not a typical case” due to the fact that it involved President Biden’s son.¹⁸⁹ Email correspondence between Hunter Biden and his business associate Eric Schwerin sheds additional light on this scheme.¹⁹⁰



In late 2021, Special Agent Ziegler compiled a Special Agent Report (SAR) that recommended prosecuting Hunter Biden for tax crimes related to the 2014 and 2015 tax years.¹⁹¹ Ziegler confirmed in his SAR that “AUSA Wolf has reviewed the appendices and the charges cited in this report and agrees with the prosecution recommendation of the above cited charges against [Robert Hunter Biden].”¹⁹²

¹⁸⁸ Shapley Interview at 59.

¹⁸⁹ *Id.*

¹⁹⁰ *See* Shapley Interview, Ex. 4.

¹⁹¹ *See* Shapley Interview, Ex. 2.

¹⁹² *Id.*

CONCLUSIONS AND RECOMMENDATIONS

The recommendation for prosecution is based on the facts above and [REDACTED] recommends that RHB be prosecuted under the provisions of Title 26 USC Sections 7201 and 7206 (1) for the tax years 2014, 2018 and 2019 and under the provisions of Title 26 USC Section 7203 for the tax years 2015, 2016, 2017, 2018 and 2019.

A draft of this SAR has been given to DOJ-Tax Senior Attorney Mark Daly, as well as Assistant United States Attorney Lesley Wolf. AUSA Wolf has reviewed the appendices and the charges cited in this report and agrees with the prosecution recommendation of the above cited charges against RHB.

Then prosecutors and the Biden Justice Department's Tax Division changed their recommendation. On June 15, 2022, investigators and prosecutors attended a meeting at Main Justice in Washington, D.C. where two Tax Division attorneys, Mark Daly and Jack Morgan, gave a presentation on the reasons not to charge Hunter Biden for tax crimes committed during the 2014 and 2015 tax years.¹⁹³ During his transcribed interview, Goldberg confirmed the whistleblowers' account that Tax Division attorneys indeed gave a presentation, but Department counsel who accompanied Goldberg would not allow him to discuss the substance of the presentation.¹⁹⁴

During his transcribed interview, Shapley testified that the Biden Justice Department allowed the statute of limitations to lapse on the 2014 and 2015 tax crimes.¹⁹⁵ Specifically, Shapley stated that up until a meeting he attended with Weiss on October 7, 2022, he believed, based on statements made by Attorney General Garland and Weiss, that prosecutors "were deciding whether to charge 2014 and 2015 tax violations."¹⁹⁶ During this period, Shapley explained, prosecutors and Hunter Biden's legal team entered into agreements to toll the statute of limitations for crimes pertaining to the 2014 and 2015 tax years.¹⁹⁷ However, despite the defense counsel's willingness to toll the statute of limitations on the charges again, the Biden Justice Department ultimately allowed the statute of limitations to lapse on those years in November 2022.¹⁹⁸ Shapley cited this decision as yet another example of the Biden Justice Department disregarding established norms to benefit Hunter Biden, explaining that "[l]etting a statute of limitations expire in an active criminal investigation is not normal."¹⁹⁹

In his transcribed interview, U.S. Attorney Weiss confirmed that the Biden Justice Department allowed the statute of limitations for the 2014 and 2015 tax year charges to expire.

¹⁹³ Ziegler Interview at 160, 164.

¹⁹⁴ Goldberg Interview at 30-31.

¹⁹⁵ Shapley Interview at 25-26, 54-55, 100.

¹⁹⁶ *Id.* at 25.

¹⁹⁷ *Id.* at 54.

¹⁹⁸ *Id.* at 25-26, 54-55, 100.

¹⁹⁹ *Id.* at 92.

However, Weiss refused to explain why the charges were allowed to lapse.²⁰⁰ Specifically, Weiss testified:

Q. [I]n 2014 and 2015, it's been well-established by the whistleblowers, Hunter Biden had in excess of over \$1 million in revenue coming in from Burisma that has avoided tax entirely. Do you think it's fair that he is able to avoid paying tax on that gigantic sum of money?

A. Again, that's something I can't comment on. That pertains to the ongoing litigation and our outstanding investigation. I'm just not at liberty to comment at this time, but there will come a time.

Q. Even though the statute of limitations has lapsed?

A. Yes, yes.

Q. When is the appropriate time to address why the statute of limitations was allowed to lapse?

A. I'll address it in the report, but even though the statute of limitations has lapsed and even though charges won't be filed, if there were to be an outstanding tax prosecution, there is no reason to believe that evidence pertaining to prior years, or witnesses involved in prior years, wouldn't be part of that litigation.²⁰¹

Under the guise of the “ongoing litigation and [the] outstanding investigation”—even though criminal liability cannot result from any investigation given the lapse in the statute of limitations—the Justice Department refused to explain why it failed to bring charges for the 2014 and 2015 tax years.²⁰² This prosecutorial decision is highly significant because those years included Hunter Biden's Burisma income and connected his father's official actions to his alleged criminal conduct. Ultimately, as Shapley explained, “[t]he purposeful exclusion of the 2014 and 2015 years sanitized the most substantive criminal conduct and concealed material facts” in this matter, including “a scheme to evade income taxes through a partnership with a convicted felon,” and “potential [Foreign Agents Registration Act] issues.”²⁰³

Overall, the testimony and documents the Committees have received to date show that the Justice Department—under the leadership of Attorney General Garland and President Biden—afforded kid-glove treatment to Hunter Biden. From slow-walking the investigation, to informing defense counsel of future investigative actions, to exhibiting a reluctance to take

²⁰⁰ Weiss Interview at 93-94.

²⁰¹ *Id.* at 92-94.

²⁰² *Id.* at 93.

²⁰³ Shapley Interview at 25.

investigative actions, to finally allowing the statute of limitations to expire on the most serious crimes, the Biden Justice Department used an overly delicate approach when pursuing the President's son's criminal conduct. The delicate approach used by the Department in its Hunter Biden investigation deviated from its standards and its mission to ensure impartial justice without fear or favor.

II. CONTRARY TO HIS ASSERTIONS TO CONGRESS, U.S. ATTORNEY WEISS DID NOT HAVE “ULTIMATE AUTHORITY” OVER THE HUNTER BIDEN CASE.

During their respective testimonies to the Ways and Means Committee, IRS Supervisory Special Agent Shapley and Special Agent Ziegler each described a meeting on October 7, 2022, at Main Justice during which U.S. Attorney Weiss stated he was “not the deciding official” on whether charges would be filed against Hunter Biden.²⁰⁴ Both whistleblowers were surprised upon learning this information, and Shapley even described this moment as his “red line,” after which he could no longer tolerate the Biden Justice Department’s tampering with the investigation.²⁰⁵ Shapley contemporaneously memorialized Weiss’s statement at the October 7 meeting in handwritten notes taken during the meeting,²⁰⁶ as well as an email he sent shortly after the meeting concluded to IRS Director of Field Operations Michael Batdorf and Special Agent in Charge Darrell Waldon.²⁰⁷

Despite subsequent protestations from the Biden Justice Department and U.S. Attorney Weiss to the contrary, including sworn testimony from Attorney General Garland that Weiss “has full authority to . . . bring cases in other jurisdictions if he feels it’s necessary”²⁰⁸ and public statements that Weiss “was given complete authority to make all decisions on his own,”²⁰⁹ the Committees have received documentary and testimonial evidence from multiple sources, including career Justice Department and FBI officials and three Biden-appointed U.S. Attorneys, confirming that Weiss did not maintain “ultimate authority” over the Hunter Biden matter. Instead, witnesses described the numerous approvals that Weiss needed to obtain, including from the Biden Justice Department’s Tax Division and other U.S. Attorneys’ Offices, and the complex process he had to navigate before he could file charges against Hunter Biden outside of his own district in Delaware.

A. Weiss did not have the sole authority to bring a case against Hunter Biden in a judicial district outside of Delaware.

U.S. Attorney Weiss’s representations about his authority have shifted over time. Initially, in response to a letter addressed to Attorney General Garland, Weiss asserted to the Judiciary

²⁰⁴ *Id.* at 28; Ziegler Interview at 40.

²⁰⁵ Shapley Interview at 28, 134, 171.

²⁰⁶ See Letter from Tristan Leavitt & Mark D. Lytle, to H. Comm. on the Judiciary (Sept. 13, 2023) (attaching a copy of Shapley’s notes from the October 7 meeting); Letter from Tristan Leavitt & Mark D. Lytle, to H. Comm. on Ways & Means and S. Comm. on Fin. (Sept. 13, 2023) (same).

²⁰⁷ Email from Gary Shapley, Supervisory Special Agent, Internal Revenue Serv., to Michael Batdorf & Darrell Waldon, Internal Revenue Serv. (Oct. 7, 2022, 6:09 PM.).

²⁰⁸ *Hearing on Oversight of the Department of Justice, Before the S. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Merrick Garland, Att’y Gen., U.S. Dep’t of Just.). See also *Hearing on the Fiscal Year 2023 Justice Department Budget Request, Before the Subcomm. on Com., Just., Sci., & Related Agencies of the S. Comm. on Appropriations*, 117th Cong. (2022) (statement of Merrick Garland, Att’y Gen., U.S. Dep’t of Just.) (“[T]he Hunter Biden investigation . . . is being run by and supervised by the United States Attorney for the District of Delaware. . . . [H]e is in charge of that investigation. There will not be interference of any political or improper kind.”).

²⁰⁹ *AG Garland Maintains David Weiss Had Full Authority Over Hunter Biden Case*, C-SPAN (June 23, 2023).

Committee: “I have been granted ultimate authority over this matter, including responsibility for deciding where, when, and whether to file charges”²¹⁰



U.S. Department of Justice

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June 7, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Jordan:

Your May 25th letter to Attorney General Garland was forwarded to me, with a request that I respond on behalf of the Department.

While your letter does not specify by name the ongoing investigation that is the subject of the Committee's oversight, its content suggests your inquiry is related to an investigation in my District. If my assumption is correct, I want to make clear that, as the Attorney General has stated, I have been granted ultimate authority over this matter, including responsibility for deciding where, when, and whether to file charges and for making decisions necessary to preserve the integrity of the prosecution, consistent with federal law, the Principles of Federal Prosecution, and Departmental regulations.

Your letter references recently-announced staffing determinations in the matter and the Committee's concern that those decisions intersect with whistleblower protections. I agree wholeheartedly that whistleblowers play an integral role in promoting both civil servant accountability and good government practices. Federal law protects whistleblowers from retaliation, as well it should.

The information sought by the Committee concerns an open matter about which the Department is not at liberty to respond. As then-Deputy Attorney General Rod Rosenstein wrote in 2018 in response to a request for information from the Honorable Charles Grassley, Chairman of the Senate Committee on the Judiciary:

Congressional inquiries during the pendency of a matter pose an inherent threat to the integrity of the Department's law enforcement and litigation functions. Such inquiries inescapably create the risk that the public and the courts will perceive undue political and Congressional influence over law enforcement and litigation decisions. Such inquiries also often seek

Subsequently, in a June 30 letter to the Judiciary Committee, Weiss claimed that his “charging authority is geographically limited to [his] home district” and that “[i]f venue for a case lies

²¹⁰ Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 7, 2023) (emphasis added).

elsewhere, common Departmental practice is to contact the United States Attorney’s Office for the district in question and determine whether it wants to partner on the case.”²¹¹ If a fellow U.S. Attorney declined to “partner,” Weiss explained, he would have had to request “Special Attorney” status, which he claimed to “have been assured that, if necessary” he would receive.²¹²


The Honorable Jim Jordan
June 30, 2023

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As the U.S. Attorney for the District of Delaware, my charging authority is geographically limited to my home district. If venue for a case lies elsewhere, common Departmental practice is to contact the United States Attorney’s Office for the district in question and determine whether it wants to partner on the case. If not, I may request Special Attorney status from the Attorney General pursuant to 28 U.S.C. § 515. Here, I have been assured that, if necessary after the above process, I would be granted § 515 Authority in the District of Columbia, the Central District of California, or any other district where charges could be brought in this matter.

At the appropriate time, I welcome the opportunity to discuss these topics with the Committee in more detail, and answer questions related to the whistleblowers’ allegations consistent with the law and Department policy. It is my understanding that the Office of Legislative Affairs will work with the Committee to discuss appropriate timeline and scope.

Sincerely,



David C. Weiss
United States Attorney

cc: The Honorable Jerrold L. Nadler, Ranking Member

Finally, in a July 10 letter to Senator Lindsey Graham, Weiss acknowledged that he had “discussions” with unnamed “Departmental officials” about seeking Special Attorney status and that he “was assured” the authority would be granted.²¹³ Weiss did not detail the substance of those discussions, the timing of them, or the officials with whom he spoke.

²¹¹ Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 30, 2023).

²¹² *Id.*

²¹³ Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Sen. Lindsey Graham, Ranking Member, S. Comm. on the Judiciary (July 10, 2023).



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July 10, 2023

The Honorable Lindsey O. Graham
Ranking Member
Senate Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Graham:

This is in response to your June 28, 2023, letter.¹

As I recently explained to the Honorable Jim Jordan,² since the whistleblowers' allegations relate to a criminal investigation that is currently being prosecuted in the United States District Court for the District of Delaware, I have a duty to protect confidential law enforcement information and deliberative communications related to the case. As I likewise indicated, I welcome the opportunity to respond to these claims in more detail at the appropriate future time, as authorized by the law and Department policy.

To clarify an apparent misperception and to avoid future confusion, I wish to make one point clear: in this case, I have not requested Special Counsel designation pursuant to 28 CFR § 600 *et seq.* Rather, I had discussions with Departmental officials regarding potential appointment under 28 U.S.C. § 515, which would have allowed me to file charges in a district outside my own without the partnership of the local U.S. Attorney. I was assured that I would be granted this authority if it proved necessary. And this assurance came months before the October 7, 2022, meeting referenced throughout the whistleblowers' allegations. In this case, I've followed the process outlined in my June 30 letter and have never been denied the authority to bring charges in any jurisdiction.

In other words, in his first letter, Weiss represented to the Judiciary Committee that he *had been* granted ultimate authority with respect to the filing of charges. But in his second letter, Weiss told the Committee that he had been assured by unnamed officials that he *would be* granted that authority in the future, if necessary, after going through a specified process, and he notably provided no explanation of who would make the determination of necessity.²¹⁴ These are

²¹⁴ Compare Letter from David C. Weiss, U.S. Att'y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 7, 2023), with Letter from David C. Weiss, U.S. Att'y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 30, 2023).

inconsistent representations, and it is not possible for both of them to be true. Weiss’s shifting statements about his authority to bring charges against Hunter Biden, especially his authority to bring charges outside of Delaware, suggest an attempt to cover up the fact that improper political considerations factored into the Department’s investigative and prosecutorial function.

Testimony provided to the Committee has revealed that U.S. Attorney Weiss’s claims about having the “ultimate” authority to bring charges outside of Delaware are clearly false. As with all U.S. Attorneys, Weiss’s jurisdiction is limited to his home district.²¹⁵ While there are several means by which a U.S. Attorney may bring charges in a different district, each method requires approval from another deciding official in the Justice Department. According to testimony received by the Committees, there appear to be five distinct ways in which a U.S. Attorney can bring charges outside of his district: (1) get the local U.S. Attorney to agree to partner on the prosecution,²¹⁶ (2) get the local U.S. Attorney to agree to prosecute the case on his or her own,²¹⁷ (3) get the local U.S. Attorney to appoint one or more Assistant U.S. Attorneys from the referring office as Special Assistant U.S. Attorneys (SAUSAs) in that district,²¹⁸ (4) be appointed as “special attorney” (also known as obtaining “515 authority” due to the fact that such authority is conferred under 28 U.S.C. § 515) by the Attorney General or his delegate,²¹⁹ or (5) be appointed as special counsel by the Attorney General.²²⁰ There is, however, no scenario in which a U.S. Attorney may unilaterally decide to bring charges in another judicial district under his or her sole authority.

Furthermore, Weiss only fulfilled one of the requirements for bringing charges outside of his district—being appointed as special counsel—on August 11, 2023,²²¹ nearly five years after his office first became involved in the case.²²² This entirely contradicts Weiss’s and Attorney General Garland’s earlier claims that Weiss, throughout the entirety of the investigation, had “ultimate” authority to bring charges in any judicial district he wanted.

In broad strokes, the process that Main Justice required Weiss to go through involved first seeking approval from the local U.S. Attorney, whether that involved partnering on the prosecution, taking over the prosecution, or appointing SAUSAs, and then, if the local U.S. Attorney refused, seeking appointment from senior Justice Department officials as special

²¹⁵ See 28 U.S.C. § 547.

²¹⁶ Weiss Interview at 16.

²¹⁷ Transcribed Interview of Matthew Graves, U.S. Att’y, D.C., at 102. (Oct. 3, 2023) [hereinafter Graves Interview].

²¹⁸ *Id.* at 101; Transcribed Interview of E. Martin Estrada, U.S. Att’y, C. Dist. of Cal., at 17, 42-43 (Oct. 24, 2023) [hereinafter Estrada Interview].

²¹⁹ Goldberg Interview at 71 (“If a U.S. Attorney wanted to bring a case in another district, and the U.S. Attorney there . . . didn’t want to be partnered with it . . . then the U.S. Attorney would need to secure a 515 letter in order to bring that case in that district.”).

²²⁰ Weiss Interview at 16-17.

²²¹ OFF. OF THE ATT’Y GEN., ORDER NO. 5730-2023, APPOINTMENT OF DAVID C. WEISS AS SPECIAL COUNSEL (2023).

²²² Weiss’s office opened its investigation of Hunter Biden around February 2019. See Gordon Interview at 28, 63 (stating that Weiss’s office and the FBI’s Wilmington Resident Agency opened their investigation of Hunter Biden in February 2019); Email from Joseph Ziegler, Special Agent, Internal Revenue Serv., to Jessica Moran, Trial Att’y, U.S. Dep’t of Just., Tax Div. (Apr. 15, 2019, 4:13 PM) (“Approx. February 2019 – My SSA advised me about the Delaware USAO [is] looking into [Hunter Biden] subsequent to the SAR.”).

attorney or special counsel.²²³ Additionally, each of the witnesses the Committee interviewed seemed uncertain of how exactly this process was supposed to work and how Weiss was expected to navigate it. For instance, FBI Special Agent in Charge of the Baltimore Field Office Thomas Sobocinski described the “process [Weiss] had to work through” to bring charges outside of Delaware as “cumbersome” and “bureaucratic.”²²⁴ When asked for additional details, Sobocinski explained that he did not “know the intricacies” of the process.²²⁵

Even the U.S. Attorneys who the Judiciary Committee interviewed were confounded by the process, so much so that they contradicted one another as to what exactly Weiss needed to do to bring charges outside of Delaware. Weiss, for his part, testified that he needed to ask other U.S. Attorneys to partner on prosecuting the case,²²⁶ which he described as “common Departmental practice.”²²⁷ Conversely, the U.S. Attorney for the District of Columbia, Matthew Graves, testified that “U.S. Attorney’s Offices don’t partner with other U.S. Attorney’s Offices,”²²⁸ and described such partnerships as a “rare hybrid model” that he had “never seen” used before in his Justice Department career.²²⁹ Graves described a complicated two-track-plus-a-hybrid-model system that he believed Weiss needed to pursue before requesting special counsel or special attorney status. He testified:

Q. [W]hat are the two tracks, in your mind?

A. The two tracks, in my mind, are the AUSAs from the other jurisdiction just come in and handle everything themselves . . . or the other jurisdiction just transfers the case to us and then we prosecute it. . . . I can’t think of a situation where it’s the hybrid model that you just . . . described, where it’s two offices joining—

Q. So what was Weiss looking for here? . . . Was he track one, track two, or hybrid?

²²³ Weiss Interview at 15-16 (“[Main Justice] wanted me to proceed in the way it would typically be done, and that would involve ultimately reaching out to the U.S. Attorney in the District of Columbia. I raised the idea of 515 authority at that time because I had been handling the investigation for some period of time. And, as I said, they suggested let’s go through the typical process and reach out to D.C. and see if D.C. would be interested in joining or otherwise participating in the investigation.”); Goldberg Interview at 71 (“If a U.S. Attorney wanted to bring a case in another district, and the U.S. Attorney there . . . didn’t want to be partnered with it . . . then the U.S. Attorney would need to secure a 515 letter in order to bring that case in that district.”); Holley Interview at 10-11 (“I am aware that if [Weiss] is not able to partner with a particular district, that there are other processes he can go through . . . to move forward . . . in the investigation.”).

²²⁴ Sobocinski Interview at 44-45, 103.

²²⁵ *Id.* at 103.

²²⁶ Weiss Interview at 15-16.

²²⁷ Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 30, 2023).

²²⁸ Graves Interview at 33. *See also id.* at 34 (“It’s exceedingly rare for an ongoing investigation for someone to join as a partner afterwards.”).

²²⁹ *Id.* at 106.

A. So, again, this wasn't explicitly said, but he was talking about—my recollection of the conversation was, he was immediately talking about what he needed to do and the support that he needed to complete that. So my frame of—

Q. Was it track one or track two?

A. —my frame of reference, how I'm hearing it, is, he is most focused on getting his charges brought by his people in the District. I am the one that introduces the [hybrid model] idea of, "Hey, can we maybe join up with this?" And he says, "We can discuss that."

Q. Well, why would you do that? If that's not one of the two tracks, why would you do that? And you just told us earlier that U.S. Attorney's Offices, when they're on the receiving end, someone's coming in, they don't like that. The investigation's been going for 3 years; you've got, as I said before, two cooks in the kitchen then. Why would you offer that?

A. So the giving end, in my experience, rarely—the end that already has the case very rarely wants to do that, for all of the reasons you just articulated. . . . The end that's on the receiving end of it is looking at things differently. And I laid out some of the considerations before. Like, you know, particularly in complex matters where there's gonna be a lot of litigation, you can have authority generated in the course of those cases that you're stuck with. And if you have a bunch of people who aren't from the jurisdiction litigating those issues—and this has happened to us with Main Justice components before—that can have massive programmatic consequences for you.

Q. And 3 weeks later, you decided you didn't want to go that route.

A. Yes, that is correct.²³⁰

Witnesses were also seemingly confused about the various means by which the Justice Department could appoint a special counsel. Several witnesses incorrectly stated that only special attorneys are appointed under 28 U.S.C. § 515, whereas special counsels must be

²³⁰ *Id.* at 102-04.

appointed under the special counsel regulations.²³¹ For instance, Goldberg, a senior and longtime Justice Department employee, erroneously believed § 515 only conferred special attorney status:

Q. Do you know if Mr. Weiss has 515 authority now?

A. I don't know the answer to that.

Q. And 515 authority is 28 United States Code 515?

A. 515. Yes.

Q. And that's the special counsel—

A. Not special counsel.

Q. Special attorney?

A. It's special attorney. Yeah.²³²

However, like the previous five special counsels,²³³ Weiss was appointed as such under 28 U.S.C. § 515, and several other general statutes.²³⁴ Weiss could not have been appointed as special counsel pursuant to the regulations, because they require that “[t]he Special Counsel shall be selected from outside the United States Government” and Weiss, of course, is a current Justice Department employee.²³⁵ Further, although none of the statutory provisions under which Weiss was appointed use the term “special counsel,” and § 515 instead refers to a “special attorney,”

²³¹ See JARED P. COLE, CONG. RSCH. SERV., R44857, SPECIAL COUNSEL INVESTIGATIONS: HISTORY, AUTHORITY, APPOINTMENT AND REMOVAL, at 9 (2019) (“[A]n individual referred to as a ‘special counsel’ thus may be appointed under either the general statutory authority or under the specific special counsel regulations[.]”).

²³² Goldberg Interview at 71-72. See also Estrada Interview at 39 (“So I don’t know that [28 U.S.C. § 515] is a special counsel statute.”).

²³³ See OFF. OF THE ATT’Y GEN., ORDER NO. 5588-2023, APPOINTMENT OF ROBERT K. HUR AS SPECIAL COUNSEL (2023) (appointing Special Counsel Robert Hur under 28 U.S.C. §§ 509, 510, 515, and 533); OFF. OF THE ATT’Y GEN., ORDER NO. 5559-2022, APPOINTMENT OF JOHN L. SMITH AS SPECIAL COUNSEL (2022) (appointing Special Counsel Jack Smith under 28 U.S.C. §§ 509, 510, 515, and 533); OFF. OF THE ATT’Y GEN., ORDER NO. 4878-2020, APPOINTMENT OF SPECIAL COUNSEL TO INVESTIGATE MATTERS RELATED TO INTELLIGENCE ACTIVITIES AND INVESTIGATIONS ARISING OUT OF THE 2016 PRESIDENTIAL CAMPAIGNS (2020) (appointing Special Counsel John Durham under 28 U.S.C. §§ 509, 510, and 515); OFF. OF THE DEPUTY ATT’Y GEN., ORDER NO. 3915-2017, APPOINTMENT OF SPECIAL COUNSEL TO INVESTIGATE RUSSIAN INTERFERENCE WITH THE 2016 PRESIDENTIAL ELECTION AND RELATED MATTERS (2017) (appointing Special Counsel Robert Mueller under 28 U.S.C. §§ 509, 510, and 515); Letter from James B. Comey, Acting Att’y Gen., U.S. Dep’t of Just., to Patrick J. Fitzgerald, U.S. Att’y, N.D. Ill. (Dec. 30, 2003) (appointing Special Counsel Patrick Fitzgerald under 28 U.S.C. §§ 508, 509, 510, and 515).

²³⁴ OFF. OF THE ATT’Y GEN., ORDER NO. 5730-2023, APPOINTMENT OF DAVID C. WEISS AS SPECIAL COUNSEL (2023) (appointing Special Counsel David Weiss under 28 U.S.C. §§ 509, 510, 515, and 533).

²³⁵ 28 C.F.R. § 600.3(a).

courts have frequently recognized that special counsels may be appointed under these provisions.²³⁶ The Justice Department appears to recognize this fact as well.²³⁷

In sum, the evidence available to the Committees shows that Weiss was not able to bring charges outside of Delaware on his own accord until he was appointed special counsel on August 11, 2023, nearly five years after his office first began investigating Hunter Biden. Instead, Weiss was forced to pursue a cumbersome and complex bureaucratic process to seek approvals from other U.S. Attorneys and officials within Main Justice. The evidence that Weiss did not have sole authority to bring charges outside of Delaware contradicts Weiss's assertion to the Judiciary Committee that he had "ultimate" authority to bring charges wherever he chose.

B. Testimony confirms that two Biden-appointed U.S. Attorneys declined to partner with Weiss to bring cases in their districts against Hunter Biden.

Initially, in February 2022, Weiss sought to obtain special attorney status from the Department for the purpose of filing charges against Hunter Biden in D.C. and California. However, by Weiss's own admission, the Biden Justice Department did not approve his request and instead instructed him to go through the process of asking the U.S. Attorneys in D.C. and the Central District of California to partner with him on the prosecution. Weiss testified:

A. I initiated email contact with Mr. Carlin, and I subsequently had a conversation with [then-Principal Associate Deputy Attorney General] John Carlin, and I believe [Associate Deputy Attorney General] Bradley Weinsheimer was on the call.

Q. Okay. And what did they tell you about bringing the case in D.C. or different jurisdictions from yours?

A. We discussed the fact that I would—they wanted me to proceed in the way it would typically be done, and that would involve ultimately reaching out to the U.S. Attorney in the District of Columbia. I raised the idea of 515 authority at that time because I had been handling the investigation for some period of time. And, as I said, they suggested let's go through the typical process and reach out to D.C. and see if D.C. would be interested in joining or otherwise participating in the investigation.²³⁸

²³⁶ See *In re Grand Jury Investigation*, 916 F.3d 1047, 1049-50 (D.C. Cir. 2019); *United States v. Stone*, 394 F. Supp. 3d 1, 17 (D.D.C. 2019); *United States v. Concord Mgmt. & Consulting LLC*, 317 F. Supp. 3d 598, 623 (D.D.C. 2018); *United States v. Manafort*, 321 F. Supp. 3d 640, 657 (E.D. Va. 2018).

²³⁷ See Government's Response in Opposition to Motion to Dismiss at 5, *United States v. Manafort*, No. 1:17-cr-00201-ABJ (D.D.C. Apr. 2, 2018) ("These statutes—Section 515 in particular—authorize the Attorney General to appoint a Special Counsel and to define the Special Counsel's duties. In doing so, the Attorney General is not required to invoke the Special Counsel regulations (28 C.F.R. Part 600).").

²³⁸ Weiss Interview at 15-16.

* * *

Q. But [515 authority] wasn't granted, right?

A. Yes. We have been over this. It wasn't granted. They said, follow the process. I followed the process. And in completing the process—

Q. But, Mr. Weiss, when you ask for something and they don't give it to you, what is that?

A. I asked for something, and in that conversation they didn't give it to me[.]²³⁹

i. Biden-appointee and donor U.S. Attorney Matthew Graves declined to partner with Weiss to bring the 2014 and 2015 tax crimes in D.C.

In late February or early March 2022, approximately one month after the Biden Justice Department did not approve his request for special attorney authority, Weiss called U.S. Attorney for the District of Columbia Matthew Graves—a Biden appointee and donor who has worked for three Democratic presidential campaigns, including the Biden campaign²⁴⁰—to discuss charging the case in D.C.²⁴¹ In their transcribed interviews, Weiss and Graves provided the Judiciary Committee with different accounts of that conversation. According to Graves, Weiss said he was looking for administrative support and Graves brought up the idea of partnering on the prosecution.²⁴² Graves testified:

Q. Can you walk us through your recollection of how the Hunter Biden case was brought to your office?

A. Yes. To the best of my recollection, in late February or early March of 2022, then U.S. Attorney Weiss, now Special Counsel Weiss, called me directly.

Q. Okay. And what did he say?

²³⁹ *Id.* at 182.

²⁴⁰ Graves Interview at 28-29 (noting that Graves conducted work on behalf of the Biden campaign, the Kerry campaign, and the Clinton-Gore campaign).

²⁴¹ *Id.* at 16-17, 27 (stating that the call occurred in late February or early March); Weiss Interview at 19, 21, 55 (stating that the call occurred in early March).

²⁴² *See id.* at 23 (“I was the first person to raise whether they wanted a local counsel on the case.”); *id.* at 27 (“We decided that we were not going to join the investigation. And, again, the context here is, I was the one who brought it up, not them.”); *id.* at 74 (“Q. Mr. Graves, Mr. Weiss never actually asked you directly to be local counsel in the Hunter Biden case. Is that fair to say? A. That’s my recollection, that I was the first one to raise it. And that kind of informed my thinking that that was an ask from me as opposed to an ask from him.”). Graves explained that “joining the case” and “being local counsel” are “one and the same.” *Id.* at 33.

- A. To my recollection, he said that he had a case where there was a component of that case that he had deemed he wanted to bring in the District of Columbia.
- Q. . . . And what did you say?
- A. So, at a high level, without getting into the case specifics, my recollection was generally . . . asking him whether he was just looking for the kind of normal administrative support that any U.S. Attorney would need if they were going to come and bring a case in another jurisdiction or have their people bring a case in another jurisdiction, or whether he was asking for us to join the investigation.
- Q. And what was his answer?
- A. To the best of my recollection, his answer was that, at a minimum, it was providing the support but we could discuss further joining or not.²⁴³

Conversely, Weiss told the Committee that he asked Graves to partner on the case,²⁴⁴ as he was instructed to do by Main Justice when they did not approve his first request for special attorney status.²⁴⁵ Weiss testified that he “reached out [to Graves] . . . and basically inquired as to whether his office would be willing to join us or participate in this case.”²⁴⁶ When asked to elaborate on what exactly he was asking Graves to partner on, Weiss explained that he “was asking [Graves] to join in the prosecution of the case,” and whether Graves was “willing to assign someone to be co-counsel in the investigation.”²⁴⁷ Weiss also expressed that he had no recollection of asking Graves for administrative support.²⁴⁸

Graves testified that after his call with Weiss, Graves stressed to his criminal division chief and principal AUSA that he needed to make a decision on partnering with Weiss’s office

²⁴³ *Id.* at 16-17.

²⁴⁴ See Weiss Interview at 124 (“I asked whether [Graves and Estrada] were interested in joining in or participating in the case, and they declined to do so[.]”); *id.* at 192 (“[W]hen I’m asking [Graves] about partnering . . .”); *id.* at 195 (“[W]e were giving [Graves] the opportunity to join in the investigation.”).

²⁴⁵ *Id.* at 16 (“And, as I said, they suggested let’s go through the typical process and reach out to D.C. and see if D.C. would be interested in joining or otherwise participating in the investigation.”); *id.* at 83 (“The first step was just to contact the U.S. Attorney’s Office to see if they wanted to join in the prosecution.”); *id.* at 86 (“They said to follow the process, talk to Graves, give him the opportunity to join.”). See also Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 30, 2023) (“If venue for a case lies elsewhere, common Departmental practice is to contact the United States Attorney’s Office for the district in question and determine whether it wants to partner on the case.” (emphasis added)).

²⁴⁶ Weiss Interview at 57.

²⁴⁷ *Id.* at 192-93.

²⁴⁸ *Id.* at 55 (“Q. Okay. And when you approached Mr. Graves, did you ask him to provide administrative support as you were exploring the possibility of bringing charges in the District of Columbia? A. I don’t know whether I did or not, to tell you the truth. It was one conversation, 5 or 10 minutes, and I don’t recall the particulars with respect to the need for administrative support.”).

quickly,²⁴⁹ presumably because the statute of limitations on the 2014 and 2015 charges was about to lapse.²⁵⁰ Graves's team then spent approximately three weeks analyzing the case, including unspecified case material they received from Weiss's office,²⁵¹ to recommend to Graves whether their office should partner on the prosecution.²⁵² Graves said that he did not review any of the case material himself.²⁵³ On March 19, 2022, Graves met with five or six members of his office, during which Graves decided not to partner with Weiss's office on prosecuting the case against Hunter Biden.²⁵⁴ Graves then "instructed [his] career prosecutors to convey the decision [not to partner] and the basis for the decision to [Weiss's] career prosecutors."²⁵⁵

In late March or early April, Weiss learned from his staff that Graves had decided not to partner on prosecuting the case.²⁵⁶ Instead, Graves offered to provide Weiss's office with administrative support such as securing time before a grand jury.²⁵⁷ Due to Graves's refusal to partner on the case, Weiss was unable to bring charges against Hunter Biden in D.C. unless the Biden Justice Department was willing to reconsider Weiss's request for special attorney status.²⁵⁸

ii. Biden-appointed U.S. Attorney Martin Estrada declined to partner with Weiss to bring charges in Los Angeles, citing serious crime epidemic and resource constraints.

In August 2022, according to Weiss's testimony, he asked Acting U.S. Attorney for the Central District of California Stephanie Christensen to partner with his office on prosecuting charges against Hunter Biden in the Central District of California.²⁵⁹ In late September or early October 2022, shortly after being sworn in to office, the new Biden-appointed U.S. Attorney E. Martin Estrada learned of Weiss's request to partner on the case from career attorneys in his office.²⁶⁰ Estrada also learned that career attorneys in his office had already informed Weiss's office that "they were recommending against partnering or co-counseling [o]n the charges being contemplated" and that Weiss wanted to discuss the matter with Estrada.²⁶¹ At the October 7,

²⁴⁹ Graves Interview at 20, 27, 45.

²⁵⁰ See Shapley Interview at 54 ("The statute [of limitations] was about to blow in March 2022."). Prosecutors and defense counsel later agreed to toll the statute of limitations before it expired in March 2022. Prosecutors ultimately allowed the statute of limitations to expire in November 2022, despite defense counsel offering to sign another tolling agreement. *Id.* at 26, 54.

²⁵¹ Graves Interview at 20-21, 80. See also Weiss Interview at 22 ("We provided [Graves's office] with information so that they could make an informed judgment on deciding whether to participate in the investigation. But I'm not going to get into particulars of documentation.").

²⁵² Graves Interview at 18-19.

²⁵³ *Id.* at 21, 80-81.

²⁵⁴ *Id.* at 23-24.

²⁵⁵ *Id.* at 28.

²⁵⁶ Weiss Interview at 19, 21.

²⁵⁷ Graves Interview at 17, 31.

²⁵⁸ Weiss Interview at 19-20 ("Q. Okay. And what did [Graves's decision not to partner] mean for the case proceeding? A. That meant that I would follow up with respect to the 515 authority —").

²⁵⁹ *Id.* at 102.

²⁶⁰ Estrada Interview at 14-15.

²⁶¹ *Id.* at 15. See also *id.* at 87 ("So my understanding was that, at some point shortly after I started, I was told that there was a request from the District of Delaware to co-counsel, partner on the case; that my career attorneys had recommended against doing so; that had been communicated to the District of Delaware; and the District of Delaware then, through Mr. Weiss, wanted to talk to me about it.").

2022 meeting, per Shapley’s contemporaneous notes of the meeting, Weiss stated that if Estrada rejected his request to partner then he “will request approval to proceed in [California].”²⁶²

During his transcribed interview with the Committee, Estrada provided additional details about his evaluation of Weiss’s request to partner. In early October 2022, Estrada reviewed three “memoranda analyzing facts and law,” which involved “the question of whether to co[-]counsel” that had been drafted by his staff, Weiss’s staff, and DOJ Tax.²⁶³ Estrada refused to disclose any additional details about the memoranda he reviewed,²⁶⁴ other than to add that, in addition to the three memos, “there were many legal memoranda that were written and presented to [Estrada] in making this decision of whether or not to agree with the career attorneys.”²⁶⁵ Shortly after reviewing the memoranda, Estrada met with his criminal division chief, major frauds section chief, and first AUSA to discuss the facts and law of the case and Weiss’s request to partner on prosecuting.²⁶⁶ During that meeting, Estrada decided not to partner with Weiss’s office.²⁶⁷ On October 19, 2022, Estrada informed Weiss of his decision not to partner on prosecuting the case, and that he would instead provide Weiss’s office with administrative support if they needed it.²⁶⁸ This was the third occasion on which Weiss was unable to bring charges in a district other than Delaware.

Estrada explained that his decision not to partner with Weiss was due to the crime epidemic plaguing his district and his office’s already-limited resources. According to Estrada, his office “was down 40 AUSAs at the time [of Weiss’s request to partner], so [they] were very resource-strapped.”²⁶⁹ Estrada described the serious crime epidemic plaguing his district, stating:

We have a Fentanyl epidemic which is one of the worst in the country[.]. We’ve done more death-resulting cases than any other district in the country. We’re on pace to do more this year than we ever had before. We’ve got a violent crime epidemic with firearms. We’ve done more Hobbs Act cases than we ever have in the past 2 years. We have a National Security Section, a division, unlike most other offices, because we’re the gateway to Asia.²⁷⁰

* * *

We also look to the practical impact of limited resources. As I mentioned, we have . . . about 20 million people in the district, yet, at the time I came in, about 140 AUSAs. That’s just over one AUSA per 100,000 people in the district. At the same time, we’re dealing

²⁶² Tristan Leavitt & Mark D. Lytle, to H. Comm. on Ways & Means and S. Comm. on Fin. (Sept. 13, 2023) (attaching a copy of Shapley’s notes from the October 7 meeting).

²⁶³ Estrada Interview at 20, 29, 71.

²⁶⁴ *Id.* at 20, 29.

²⁶⁵ *Id.* at 29.

²⁶⁶ *Id.* at 19-21.

²⁶⁷ *Id.* at 21.

²⁶⁸ *Id.* at 22; Weiss Interview at 103.

²⁶⁹ Estrada Interview at 32.

²⁷⁰ *Id.* at 28.

with—as I said, we’re the gang capital. We, unfortunately, export MS-13, Crips gangs, Hispanic gangs, Mexican mafia to the rest of the country. Our cartels infect the rest of the country. The fraud we have here infects the rest of the country. So there were a lot of issues I needed to deal with right there and then which called for resources.²⁷¹

Weiss seemingly had another method to bring charges in California that he failed to use. According to Estrada, before his confirmation, one of the Acting U.S. Attorneys in the district had appointed Assistant U.S. Attorneys from Weiss’s office to serve as SAUSAs in the Central District of California, meaning they were authorized to bring charges and litigate in that district.²⁷² Estrada was unaware of how many SAUSAs were appointed, other than that it was more than one, and he was unaware when exactly they were appointed, explaining that he did not ask for the information “because it didn’t seem relevant” to him.²⁷³ Weiss was unable to provide any information on this topic because he could not “recall the particulars of whether SAUSAs were established and exactly what that meant[.]”²⁷⁴ It is not clear why Weiss needed to partner with Estrada when he already had Assistant U.S. Attorneys from his office who were able, as SAUSAs, to bring charges and prosecute the case in Estrada’s district.

Weiss and Estrada remained in contact with each other about the case even after Weiss was appointed as special counsel. Estrada informed the Committee that he had a call with Weiss about the case on September 19, 2023, though he refused to discuss the call other than to say it “did not involve the question of whether to co[-]counsel on contemplated charges against Hunter Biden[.]”²⁷⁵ Weiss similarly acknowledged the call’s existence without providing further detail.²⁷⁶

After both U.S. Attorney Graves in D.C. and U.S. Attorney Estrada in California declined to partner on prosecuting the case against Hunter Biden,²⁷⁷ it appears that Weiss did not make any further attempt to prosecute in those districts until he received special counsel status. Weiss did not attempt to bring charges in those districts despite assurances he said he received from Main Justice that he would receive special attorney status if necessary.

²⁷¹ *Id.* at 34.

²⁷² *Id.* at 17-18, 23.

²⁷³ *Id.* at 18.

²⁷⁴ Weiss Interview at 102.

²⁷⁵ Estrada Interview at 26.

²⁷⁶ Weiss Interview at 149 (“Q. Mr. Estrada testified that there was another conversation in September of 2023. Do you remember that one? A. Yeah, I don’t want to get into the particulars of any further conversations. I mean, the first one . . . spoke to my authority. The second one, I just – it would not be appropriate for me to comment on.”).

²⁷⁷ See Goldberg Interview at 76 (“Q. . . . [Weiss] had taken the case to two separate United States Attorneys. He took it to the U.S. Attorney for the district of D.C., and he took it to the U.S. Attorney for the Central District of California, and both U.S. Attorneys declined to partner, correct? A. That's my understanding, that they did not want to partner on the case.”).

C. The Department’s Tax Division had to approve any tax charges U.S. Attorney Weiss wanted to pursue.

In addition to being geographically limited in where he could bring charges against Hunter Biden, Weiss also needed approval from the Biden Justice Department’s Tax Division to bring tax-related charges against Hunter Biden. As IRS whistleblower Shapley wrote in his contemporaneous notes from the October 2022 prosecution team meeting, Weiss stated he “[n]eeds DOJ Tax approval first – stated that DOJ Tax will give ‘discretion’ (We explained what that means and why that was problematic).”²⁷⁸ The Justice Manual, which sets forth the standards by which the Justice Department conducts its prosecutions, supports this understanding. It states that “[t]he *final* authority for the prosecution or declination of all criminal matters arising under the internal revenue laws rests with the Assistant Attorney General, Tax Division.”²⁷⁹ It is difficult to reconcile this provision with Weiss’s claim that he had “ultimate” authority over the Department’s Hunter Biden case, including what charges to bring. Indeed, none of the witnesses the Committee interviewed were able to reconcile this discrepancy.²⁸⁰

The Justice Manual further specifies that “only after the Tax Division has authorized the prosecution of individuals and entities for criminal tax violations may a United States Attorney’s Office seek an indictment or file any tax charges.”²⁸¹ Similarly, with regard to opening a tax investigation, the Justice Manual provides that “[o]nly after the Tax Division has authorized a grand jury investigation may a United States Attorney’s Office issue subpoenas and undertake other investigative actions.”²⁸² Thus, even if Weiss had been afforded special attorney authority, he still needed approval from the Tax Division before bringing tax charges.²⁸³ According to U.S. Attorney Graves, the Tax Division is afforded this responsibility because “the Tax Code is one of the most complicated criminal regimes that we have. . . . And you want a centralized group that is very much steeped in these issues and able to make sure that tax prosecutions across the country are being implemented uniformly.”²⁸⁴

Witnesses repeatedly confirmed to the Judiciary Committee that the Tax Division first had to approve opening a grand jury investigation of Hunter Biden’s alleged tax crimes, and then also had to approve all tax charges that U.S. Attorney Weiss wanted to pursue. Stuart Goldberg, Acting Deputy Assistant Attorney General for Criminal Matters in the Tax Division, who has worked at the Justice Department since 1988, testified that the Tax Division must approve

²⁷⁸ Email from Gary Shapley, Supervisory Special Agent, Internal Revenue Serv., to Michael Batdorf & Darrell Waldon, Internal Revenue Serv. (Oct. 7, 2022, 6:09 PM).

²⁷⁹ U.S. Dep’t of Just., Just. Manual § 6-4.218 (2023).

²⁸⁰ See, e.g., Estrada Interview at 39 (“Q. Okay. But, if the Justice Manual says that the Assistant Attorney General for the Tax Division has the final authority, how do you reconcile that with Mr. Weiss’ statement that he had ultimate authority? A. I’m not going to attempt to reconcile anything.”).

²⁸¹ U.S. Dep’t of Just., Just. Manual § 6-1.110 (2023) (emphasis in original). See also *id.* § 6-4.200 (“The Tax Division must approve any and all criminal charges that a United States Attorney’s Office intends to bring against a defendant for conduct arising under the internal revenue laws, regardless of which criminal statute(s) the United States Attorney’s Office proposes to use in charging the defendant.”).

²⁸² *Id.* § 6-1.110 (emphasis in original). See also *id.* § 6-4.120 (“[T]he Tax Division must first approve and authorize the United States Attorney’s Office’s use of a grand jury to investigate criminal tax violations.”).

²⁸³ Goldberg Interview at 74; Graves Interview at 94.

²⁸⁴ Graves Interview at 49.

criminal tax charges, with very limited exceptions (which are not relevant to the Hunter Biden case²⁸⁵) before a U.S. Attorney may file such charges.²⁸⁶ The role of U.S. Attorneys, including Weiss, in regard to charging decisions is limited to merely recommending charges.²⁸⁷ Goldberg stated:

Q. Can you explain the role of the Tax Division in approving criminal investigations?

A. So there are various approval functions that the Tax Division has that might come up in the course of a particular case. Some of those deal with whether or not a grand jury investigation can be opened, whether or not a prosecution can be brought generally. There are investigative steps that are reserved for the Tax Division, and somebody in my position would have to sign off on things like attorney subpoenas, for instance. That's overall what it looks like.

Q. According to the Department of Justice, the Justice Manual, only after the Tax Division has authorized a grand jury investigation may a United States Attorney's Office issue subpoenas and undertake other investigative actions. Is that consistent with your understanding?

A. In terms of directly working a tax case. Sometimes there are overlapping Title 18 charges where they might be able to collect information that's useful. But, yes, before they issue a tax-related subpoena [they] should have a grand jury authorization.

Q. And isn't it also true that under the Justice Manual DOJ Tax's approval is required before the U.S. Attorney's Office may bring charges for felony cases?

A. Yes, that is true, though there are a very small number of cases, I think, that under the regulations—I think there are a small number of cases, excise tax cases and things like that, where I think it's possible for a U.S. Attorney's Office to get

²⁸⁵ The criminal tax matters for which Tax Division approval is not required before a U.S. Attorney may file charges include excise taxes, multiple filings of false and fictitious returns claiming refunds, trust fund matters, “ten percenter” matters, and IRS form 8300 returns. *See* U.S. Dep’t of Just., Just. Manual § 6-4.243 (2023).

²⁸⁶ *See* Goldberg Interview at 74 (“Q. Okay. So if felony tax charges are going to be brought, the Tax Division has to sign off? Has to okay it? A. In a typical case, yes, we would have to okay that.”).

²⁸⁷ *See id.* at 75 (“My understanding is that if you’re a U.S. Attorney who is leading a prosecution, that you can make recommendations on your case, but . . . if you want to bring a tax case, you need to get Tax Division authority.”); *id.* at 82 (“[Weiss] was in a position where he was going to make a recommendation . . . regarding the prosecution[.]”); *id.* at 84 (“[Weiss] was going to be making a recommendation on the case.”).

a direct referral and actually bring the case. But those are small and unusual.²⁸⁸

Weiss similarly agreed that Tax Division sign-off was required for charges and investigative steps. He testified:

- Q. Okay. So, under the [Justice] manual, the final authority for the prosecution or declination of all criminal matters arising under the Internal Revenue laws rest[s] with the Tax Division, correct?
- A. I am aware that Tax Division approves the charging of [T]itle 26 offenses. . . .
- Q. Okay. But, if you're working a tax case, there's specific investigative steps that need the okay or approval of the Tax Division before you can initiate, correct?
- A. That's my understanding.²⁸⁹

U.S. Attorney Matthew Graves also understood that the Tax Division played a central approval function in tax cases. He stated:

- Q. [I]t is fair to say, in Federal criminal tax cases, approval from DOJ Tax is required before a U.S. Attorney's office may issue subpoenas or undertake other investigative actions?
- A. There are various steps along the investigative process that have to be approved by the Tax Division in connection with the prosecution or investigation of tax charges.
- Q. Okay. And so, if a U.S. Attorney, whether it's yourself or Mr. Weiss, wanted to bring tax charges against an individual, it would require the approval of the Tax Division, correct?
- A. That is correct.²⁹⁰

U.S. Attorney Estrada was also aware of the required Tax Division authorization before bringing tax-related charges. He testified that "for certain tax charges, you need authorization from the

²⁸⁸ *Id.* at 8-9.

²⁸⁹ Weiss Interview at 29-30. *See also id.* at 168 ("Q. But, as we've discussed, under the Justice Manual, DOJ Tax has to approve felony charges, right? A. DOJ Tax . . . is required to approve Title 26 charges.").

²⁹⁰ Graves Interview at 11-12. *See also id.* at 94 ("Q. Because before getting special counsel authority, for Mr. Weiss to bring some of these charges, he would've needed, as we discussed this morning, the approval of the Tax Division. A. So, again, I don't know the specifics of this case. The way the Justice Manual is set up, certainly Tax Division approval would be required.").

Tax Division to bring those charges and then also to dismiss those charges . . . if you choose to dismiss them.”²⁹¹

IRS Director of Field Operations Michael Batdorf provided the same information when interviewed by the Committee on Ways and Means. He explained:

Q. Okay. So at the time of the June 15th meeting, so the meeting we’ve just been discussing, was it your view that David Weiss had the authority to bring this case, any charges he wanted, in any jurisdiction he wanted?

A. It was my view that—well, DOJ Tax had not authorized any charges at that time. So DOJ Tax would have to authorize charges prior to David Weiss recommending an indictment or prosecution.²⁹²

* * *

Q. Okay. And so if they—and if they decline, if they did not authorize, then there is no way to go forward in the case, you need—because you need DOJ Tax approval?

A. You need DOJ Tax approval.

Q. So Mr. Weiss couldn’t bring charges without first getting DOJ Tax approval?

A. No. Not—to the best of my knowledge, no.²⁹³

The Tax Division may also decline tax charges that a U.S. Attorney wants to bring in a jurisdiction.²⁹⁴ Weiss explained that if the Tax Division refused to authorize charges, he “could have appealed to the Deputy Attorney General or the Attorney General.”²⁹⁵ However, Weiss did not have the authority to unilaterally overrule the Tax Division’s charging decisions with respect to tax-related charges.

Witnesses were unable to reconcile the Justice Manual requirements that the Tax Division approve tax charges before a U.S. Attorney may file them with Weiss’s claim that he had “ultimate authority . . . for deciding where, when and whether to file charges” in this case.²⁹⁶ For instance, Goldberg attempted to reconcile the matter by saying Weiss didn’t really mean “ultimate” (i.e., final or utmost) authority when he used the term “ultimate authority,” but instead

²⁹¹ Estrada Interview at 38.

²⁹² Batdorf Interview at 22-23.

²⁹³ *Id.* at 39.

²⁹⁴ Goldberg Interview at 13.

²⁹⁵ Weiss Interview at 30-31.

²⁹⁶ Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 30, 2023).

meant that he only had authority “subject to limitations that are placed on departmental prosecutors.”²⁹⁷ However, Goldberg’s attempt at reconciling this discrepancy acknowledged that Weiss was not the final decisionmaker on this case and that he indeed required approval from Justice Department officials, per the Justice Manual provisions and associated federal regulations,²⁹⁸ which contradicts Attorney General Garland’s broad statements about the scope of Weiss’s “complete” authority to “make all decisions on his own.”²⁹⁹

U.S. Attorney Weiss similarly attempted to reconcile the Justice Manual provisions with his statements about his authority. He stated:

Q. But, as we’ve discussed, under the Justice Manual, DOJ Tax has to approve felony charges, right?

A. DOJ Tax has approval—is required to approve Title 26 charges. Yes, we have discussed that. And I welcomed DOJ Tax’s input in this case. Never felt that I had an issue in that regard.

Q. Right. But whether you had Special Counsel authority or 515 authority, no matter what kind of authority you had, you still had to have DOJ Tax’s approval for tax charges.

A. You’re still consulting with DOJ Tax . . . absolutely.

Q. Okay. So, when Mr. Shapley writes, “Needs DOJ Tax approval first,” I mean, that is consistent with the facts of life, correct?

A. I’m not—look, I’m not challenging the DOJ Tax. And I believe I would’ve said, as I’ve said here today, I’m not operating in a vacuum. There are processes here. And others need to be involved.³⁰⁰

The fact that DOJ policy required Weiss to obtain approval from the Tax Division before opening a grand jury investigation, and then get further approval before filing charges, undermines Weiss’s plain-language assertion that he had ultimate authority over this case. Ultimately, contrary to Attorney General Garland’s assurances, Biden Administration political appointees exercised significant oversight and control over the Hunter Biden investigation.

²⁹⁷ Goldberg Interview at 83.

²⁹⁸ See 28 C.F.R. § 0.70 (“The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Tax Division: . . . [c]riminal proceedings arising under the internal revenue laws[.]”). See also Goldberg Interview at 61 (“There’s a regulation, 28 CFR 0.70, which specifically says that Tax Division has authority over matters arising under the Internal Revenue laws.”).

²⁹⁹ See, e.g., *AG Garland Maintains David Weiss Had Full Authority Over Hunter Biden Case*, C-SPAN (June 23, 2023) (“I don’t know how it would be possible for anybody to block [Weiss] from bringing a prosecution, given that he has this authority. . . . [H]e was given complete authority to make all decisions on his own.”).

³⁰⁰ Weiss Interview at 168.

During his transcribed interview, Weiss defended his assertions about having “ultimate” authority over the Hunter Biden investigation as U.S. Attorney because, in his words, he was “the decisionmaker in this case,”³⁰¹ and he “didn’t need anybody’s permission” to make decisions.”³⁰² Weiss conceded that he does not “make these decisions in a vacuum” as he is “bound by Federal law, the principles of Federal prosecution, and DOJ guidelines,” and that “[a]s a result, there are processes that [he] must adhere to in making investigative and charging decisions.”³⁰³ Weiss contended, however, that “[t]hese processes did not interfere with [his] decisionmaking authority” as he was not “blocked or otherwise prevented from pursuing charges or taking the steps necessary in the investigation by other U.S. Attorneys, the Tax Division, or anyone else in the Department of Justice.”³⁰⁴

Weiss’s attempts to explain away his statements strain credulity and ignore the fact that on three separate occasions he was indeed blocked from bringing charges against Hunter Biden.³⁰⁵ First, in February 2022, Main Justice rebuffed his request for special attorney status. Second, in March 2022, U.S. Attorney Graves refused to partner on the case.³⁰⁶ And third, in October 2022, U.S. Attorney Estrada likewise refused to partner on the case.³⁰⁷ The only reason Weiss was ultimately able to file tax charges against Hunter Biden in June 2023 is because Hunter Biden waived venue to help usher through an unprecedented sweetheart plea deal.³⁰⁸ Weiss’s argument is further belied by the fact that on August 11, 2023, Attorney General Garland appointed Weiss special counsel, thereby empowering him to bring charges outside of his home district of Delaware.³⁰⁹ However, if Weiss already had “ultimate” authority to bring charges outside of his home district, the need for special counsel authority would have been redundant, and there would have been no reason for Weiss to request such authority.

³⁰¹ *Id.* at 9.

³⁰² *Id.* at 30.

³⁰³ *Id.* at 9.

³⁰⁴ *Id.*

³⁰⁵ *See id.* at 182 (“I asked for [special attorney status], and in that conversation [Main Justice] didn’t give it to me[.]”).

³⁰⁶ *See supra* Part II.B.i.

³⁰⁷ *See supra* Part II.B.ii.

³⁰⁸ Memorandum of Plea Agreement at 1, *United States v. Biden*, No. 1:23-mj-00274-UNA (D. Del. Aug. 2, 2023); Diversion Agreement at 3, *United States v. Biden*, No. 1:23-cr-00061-MN (D. Del. Aug. 2, 2023).

³⁰⁹ OFF. OF THE ATT’Y GEN., ORDER NO. 5730-2023, APPOINTMENT OF DAVID C. WEISS AS SPECIAL COUNSEL (2023).

III. THE BIDEN ADMINISTRATION HAS SOUGHT TO INFLUENCE THE HUNTER BIDEN INVESTIGATION IN A MANNER FAVORABLE TO PRESIDENT BIDEN.

The Committees have gathered evidence that the Biden Administration has improperly influenced the course of the independent IRS and Justice Department investigation into Hunter Biden. According to the available evidence, the Biden Justice Department shut down certain lines of inquiry and allowed the statute of limitations to lapse on certain charges. After whistleblowers came forward to detail the Department's obstruction, and the Department was compelled to take some prosecutorial action, the Department tried to push through a sweetheart plea deal, which imploded in open court. The Biden Justice Department has made inconsistent statements to the Judiciary Committee about the independence of its investigation, and President Biden has prejudiced the investigation by making statements proclaiming his son's innocence. In short, evidence obtained to date details how the Biden Administration has deviated from its typical process to provide the President's son special treatment and influence the investigation in a way that is favorable to the President's family.

A. Throughout Weiss's investigation, President Biden has made statements that prejudice the Justice Department's investigation and the appearance of impartial justice.

President Biden and his White House staff have prejudiced the Department's investigation by making repeated public statements about Hunter Biden's innocence.³¹⁰ President Biden is the head of the Executive Branch, and Justice Department officials are appointed by and serve at the pleasure of the President. As such, the President's statements, as well as those from senior White House officials, risk influencing the Department's actions and its decision-making in the ongoing criminal investigation of the President's son, an investigation which has implicated the President himself.

Since becoming President, President Biden has used the bully pulpit of his office to speak about the Justice Department's investigation into his son in a manner that leaves no ambiguity that he believes the investigation to be baseless. For example, on October 11, 2022, a reporter asked President Biden about potential charges against Hunter.³¹¹ While acknowledging that Hunter Biden lied on his application to purchase a gun, President Biden stated, "I'm confident that he is—what he says and does are consistent with what happens."³¹² President Biden then reiterated that he has "great confidence in [his] son."³¹³ In May 2023, President Biden again defended his son, stating, "[M]y son has done nothing wrong."³¹⁴ He added, "I trust him. I have faith in him."³¹⁵

³¹⁰ See, e.g., Jerry Dunleavy, *Hunter Biden investigation: How president's denial of son's wrongdoing colors DOJ inquiry*, WASH. EXAM'R (May 11, 2023).

³¹¹ Kevin Liptak & Evan Perez, *Biden addresses possible criminal charges against Hunter Biden and says he's 'proud' of son's fight against drug addiction*, CNN (Oct. 12, 2022).

³¹² *Id.*

³¹³ *Id.*

³¹⁴ Katherine Doyle, *Biden defends son Hunter ahead of possible federal tax, gun charges*, NBC NEWS (May 5, 2023).

³¹⁵ *Id.*

In August 2023, a reporter brought up testimony that President Biden was “on speakerphone” with Hunter Biden’s former business associates “talking business,” potentially implicating President Biden in these crimes.³¹⁶ President Biden shot back caustically: “I never talked business with anybody. I knew you’d have a lousy question.”³¹⁷ When the reporter followed up to President Biden to explain why the question was lousy, the President shot back, “Because it’s not true.”³¹⁸

Senior White House employees have also sought to prejudice the Justice Department’s investigation by publicly commenting on Hunter Biden’s innocence and President Biden’s purported lack of involvement in his son’s foreign business dealings. For example, then-White House Chief of Staff Ron Klain stated, “Of course the president is confident that his son didn’t break the law” and that President Biden “is confident that his family did the right thing.”³¹⁹ Klain added, “[t]hese are actions by Hunter and [the President’s] brother. They’re private matters. They don’t involve the president. And they certainly are something that no one at the White House is involved in.”³²⁰ On April 5, 2022, then-White House Press Secretary Jen Psaki agreed with a reporter’s question that the President has “never spoke[n] to his son about his overseas business dealings.”³²¹ On July 24, 2023, in an exchange with a reporter, White House Press Secretary Karine Jean-Pierre stated that President Biden “was never in business with his son.”³²² Two days later, Jean-Pierre reiterated at a press briefing that “nothing has changed,” again denying that President Biden had any involvement with his son’s foreign business dealings.³²³

Despite their claims, these statements from both President Biden and his senior White House staff appear to be inconsistent with evidence that the Committees have gathered—including bank records, discussions with former business associates, interviews with investigators from the Hunter Biden criminal investigation, and government records from multiple agencies—that the President was involved in his family’s foreign business entanglements. The statements by the President and senior White House officials send a strong signal to Justice Department prosecutors, who ultimately are accountable to them President, that any investigation into Hunter Biden has no merit. At the very least, the President’s statements create the dangerous appearance that his Justice Department has failed to live up to its mission of fair and impartial administration of justice.

³¹⁶ Alexander Hall, *Biden scorched for response to question about talking to Hunter’s business associates: ‘Pathological liar’*, FOX NEWS (Aug. 10, 2023).

³¹⁷ *Id.*

³¹⁸ *Id.*

³¹⁹ David Cohen, *Biden ‘confident’ his son didn’t break the law, White House chief of staff says*, POLITICO (Apr. 3, 2022).

³²⁰ *Id.*

³²¹ *Press Briefing by Press Secretary Jen Psaki, April 5, 2022*, THE WHITE HOUSE (Apr. 5, 2022).

³²² *Press Briefing by Press Secretary Karine Jean-Pierre*, THE WHITE HOUSE (July 24, 2023).

³²³ *Press Briefing by Press Secretary Karine Jean-Pierre and National Security Council Coordinator for Strategic Communications John Kirby*, THE WHITE HOUSE (July 26, 2023).

B. Without the brave IRS whistleblowers, it is likely that the Justice Department would have never acted on Hunter Biden’s misconduct.

The evidence that the Committees have uncovered to date suggests that the Justice Department had no intention of aggressively investigating or acting upon allegations of potential criminal conduct by Hunter Biden until transparency forced accountability. If not for the brave whistleblowers shedding light on the Justice Department’s intentional slow-walking of the investigation and deviations from standard investigative practices, it seems likely that the Justice Department would have never acted on the investigation.

In his contemporaneous handwritten notes taken at the October 7, 2022 meeting, Shapley wrote that “[i]nvestigative work essentially complete per U.S. [Attorney].”³²⁴ Additionally, in an email to his superiors sent shortly after the meeting, Shapley explained that “[n]o major investigative actions remain” with respect to the Hunter Biden investigation.³²⁵

³²⁴ Letter from Tristan Leavitt & Mark D. Lytle, to H. Comm. on Ways and Means & S. Comm. on Fin. (Sept. 13, 2023) (attaching Shapley’s notes from the October 7 meeting).

³²⁵ Email from Gary Shapley, Supervisory Special Agent, Internal Revenue Serv., to Michael Batdorf & Darrell Waldon, Internal Revenue Serv. (Oct. 7, 2022, 6:09 PM).

2. **Weiss stated that he is not the deciding person on whether charges are filed**
 - a. I believe this to be a huge problem – inconsistent with DOJ public position and Merrick Garland testimony
 - b. Process for decision:
 - i. Needs DOJ Tax approval first – stated that DOJ Tax will give “discretion” (We explained what that means and why that is problematic)
 - ii. No venue in Delaware has been known since at least June 2021
 - iii. Went to D.C. USAO in early summer to request to charge there – Biden appointed USA said they could not charge in his district
 1. USA Weiss requested Special counsel authority when it was sent to D.C and Main DOJ denied his request and told him to follow the process
 - iv. Mid-September they sent the case to the central district of California – coinciding with the confirmation of the new Biden appointed USA – decision is still pending
 - v. If CA does not support charging USA Weiss has no authority to charge in CA –
 1. He would have to request permission to bring charges in CA from the Deputy Attorney General/Attorney General (unclear on which he said)
 - vi. With DOJ Tax only giving “discretion” they are not bound to bring the charges in CA and **this case could end up without any charges**
 3. They are not going to charge 2014/2015 tax years
 - a. I stated, for the record, that I did not concur with that decision and put on the record that IRS will have a lot of risk associated with this decision because there is still a large amount of unreported income in that year from Burisma that we have no mechanism to recover
 - b. Their reason not to charge it does not overcome the scheme and affirmative acts – in my opinion
 4. FBI SAC asked the room if anyone thought the case had been politicized – we can discuss this is you prefer
 5. **No major investigative actions remain**
 6. Both us and the FBI brought up some general issues to include:
 - a. Communication issues
 - b. Update issues
 - c. **These issues were surprisingly contentious**

Always available to discuss. Have a great weekend!

Ziegler similarly explained during his transcribed interview on June 1, 2023 that “the investigative process is 99.9 percent done[.]”³²⁶ In other words, at the time of the “red-line” meeting that ultimately led the IRS whistleblowers to shine the light on misconduct in the investigation, the only remaining decision points were whether to pursue charges against Hunter Biden.

Testimony from the FBI officials appears to further substantiate Shapley’s assertion. Throughout their testimony, neither Sobocinski nor Holley could describe any real or significant progress made in Weiss’s investigation after the October 7 meeting through the August 8, 2023

³²⁶ Ziegler Interview at 14.

special counsel announcement.³²⁷ Other than reiterating that the investigation is “ongoing,” the witnesses provided bland and ambiguous responses to the Judiciary Committee’s questions about the status of the case at the time of the October 7 meeting and what investigative steps remain.

For example, Sobocinski would not provide a clear answer about where in the process the investigation stood, instead stating vaguely that the FBI is doing everything to “bring it forward to the Justice Department.”³²⁸ Holley likewise could not articulate any progress made in the investigation after the October 7 meeting until August 2023. Although Holley generally disagreed that all investigative steps had been exhausted as of October 7, she declined to provide examples to the Committee of investigative steps undertaken after October 7.³²⁹ Holley’s and Sobocinski’s refusal to provide any update on the purported “ongoing investigation” since the October 7, 2022 meeting bolsters whistleblower testimony that 99.9 percent of the investigation had been completed as of October 2022.

The timing of the Justice Department’s actions likewise suggest that it would not have taken further action on the Hunter Biden case but for the whistleblower disclosures. Sometime after April 19, 2023, when Shapley’s attorney first notified Congress of his client’s allegations, Shapley “started to hear rumblings that DOJ was picking the case back up again.”³³⁰ This testimony is corroborated by the Department’s actions. In May 2023, around the time that the IRS whistleblowers initially testified to Congress and shortly after a meeting between Hunter Biden’s then-lawyer Chris Clark,³³¹ Weiss, and Associate Deputy Attorney General Bradley Weinsheimer,³³² the Biden Justice Department began formally negotiating with Hunter Biden’s lawyers about potential plea and pretrial diversion agreements.³³³

³²⁷ See Sobocinski Interview at 162-63; Holley Interview at 102-03.

³²⁸ Sobocinski Interview at 162.

³²⁹ Holley Interview at 102-03.

³³⁰ Shapley Interview at 32.

³³¹ On August 15, 2023, Clark filed a motion, which Judge Noreika granted two days later, to withdraw from representing Hunter Biden in this matter due to Clark’s belief that he could be called as a witness in future litigation concerning “the negotiation and drafting of the plea agreement and diversion agreement. . . .” Motion for Leave to Withdraw as Counsel for Defendant Robert Hunter Biden, *United States v. Biden*, No. 1:23-mj-00274-MN, No. 1:23-cr-00061-MN (D. Del. Aug. 15, 2023) (citing Delaware Rule of Professional Conduct 3.7(a) which provides that “a lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless... disqualification of the lawyer would work substantial hardship on the client.”).

³³² See Betsy Woodruff Swan, *In talks with prosecutors, Hunter Biden’s lawyers vowed to put the president on the stand*, POLITICO (Aug. 19, 2023) (reporting that Clark, Weiss, and Weinsheimer met on April 26, 2023 to discuss the charges, but noting that it is “not clear what happened in the meeting, which came at a sensitive moment for the probe”).

³³³ Defendant’s Response to the United States’ Motion to Vacate the Court’s Briefing Order at 1, *United States v. Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 13, 2023); see also Email from Lesley Wolf, Assistant U.S. Att’y, Dist. of Del., to Chris Clark (May 18, 2023, 10:02 PM) (on file with Committee); James Lynch, *Hunter Biden began negotiating plea deal with DOJ right after IRS whistleblower first came forward, court docs show*, DAILY CALLER (Aug. 14, 2023).

C. Hunter Biden’s attorneys are pushing the Biden Justice Department to investigate witnesses in retaliation for making protected disclosures regarding Hunter Biden’s alleged criminal conduct.

Hunter Biden’s legal team has engaged in a brazen effort to intimidate and harass the brave IRS whistleblowers who exposed irregularities in the Department’s investigation of Hunter Biden,³³⁴ and a former business associate of Hunter Biden who provided information to the FBI regarding the Bidens’ shady business practices. These tactics have even included urging the Department to prosecute the whistleblowers for their protected disclosures to Congress.³³⁵ Federal law protects whistleblowers from retaliation,³³⁶ and efforts to intimidate these whistleblowers raise serious concerns about potential felonious obstruction of the Committees’ investigation.³³⁷ The willingness of the Hunter Biden legal team to push the Biden Justice Department into investigating whistleblowers shows the extent to which Hunter Biden believes it can influence the investigation in a manner favorable to him.

On June 30, 2023, Abbe Lowell, an attorney representing Hunter Biden, wrote to the Ways and Means Committee, asserting without evidence that Shapley and Ziegler had violated federal law in making their protected whistleblower disclosures to the Committee.³³⁸ Lowell slandered the brave IRS whistleblowers as “disgruntled agents” with an “axe to grind,” and suggested—again without evidence—that these men were responsible for leaks to media outlets.³³⁹ Lowell implied that at least one of the whistleblowers, Shapley, faced “some investigation into his *own conduct*.”³⁴⁰ On June 3, 2023, on his own accord, Shapley provided the Committee on Ways and Means an affidavit that read, in part, as follows:

I was not the source for the October 6, 2022 Washington Post article, nor have I ever had any contact with [the article’s authors] Barrett or Stein. Because I am so confident of this fact, I hereby authorize the Washington Post and/or journalists Devlin Barrett, Perry Stein, or any other Washington Post reporter to release any communications directly or indirectly to or from me. In this regard, I am willing to waive any purported journalistic privilege and/or confidentiality that would have arisen had I been a source for the Washington Post.³⁴¹

Shapley went on to note that he had “never leaked confidential taxpayer information.”³⁴²

³³⁴ See Kimberley A. Strassel, *Hunter Biden’s Smear Strategy*, WALL ST. J. (July 6, 2023); Letter from Abbe Lowell, to Rep. Jason Smith, Chairman, H. Comm. on Ways and Means (June 30, 2023).

³³⁵ See Michael S. Schmidt et al., *Inside the Collapse of Hunter Biden’s Plea Deal*, N.Y. TIMES (Aug. 19, 2023).

³³⁶ See, e.g., 5 U.S.C. §§ 2302(b)(8)(C), 7211.

³³⁷ See 18 U.S.C. §§ 1505, 1512(b).

³³⁸ Letter from Abbe Lowell, to Rep. Jason Smith, Chairman, H. Comm. on Ways & Means (June 30, 2023).

³³⁹ *Id.*

³⁴⁰ *Id.* (emphasis in original).

³⁴¹ Shapley Supplemental Affidavit at 4.

³⁴² *Id.*

Hunter Biden’s lawyers have also directly urged the Justice Department—the law-enforcement component responsible to Hunter Biden’s father—to act against the whistleblowers. According to the *New York Times*, Hunter Biden’s “lawyers have contended to the Justice Department that by disclosing details about the investigation to Congress, they broke the law and should be prosecuted.”³⁴³ On October 31, 2022, Chris Clark sent a letter to U.S. Attorney Weiss falsely accusing Shapley and Ziegler of illegally leaking information about the investigation to the press and demanding they be investigated.³⁴⁴ Clark also wrote to Justice Department Inspector General Michael Horowitz (twice),³⁴⁵ Associate Deputy Attorney General Bradley Weinsheimer,³⁴⁶ and Tax Division Senior Litigation Counsel Mark Daly and Delaware Assistant U.S. Attorneys Lesley Wolf and Carly Hudson³⁴⁷ demanding that the whistleblowers be investigated. Abbe Lowell sent a similar letter to Weiss on August 14, 2023, falsely claiming that Shapley and Ziegler acted illegally when disclosing information about the Department’s wrongdoing to Congress and demanding that they be investigated.³⁴⁸ However, Shapley’s and Ziegler’s disclosures to Congress are protected under federal law,³⁴⁹ and any suggestion that they acted illegally in making these disclosures is nothing short of frivolous and a clear attempt to intimidate the whistleblowers.

Lowell’s attempted intimidation tactics did not end with the whistleblowers. On October 7, 2023, Lowell sent a letter to U.S. Attorney Graves demanding an investigation into Tony Bobulinski concerning statements that Bobulinski made about Hunter Biden.³⁵⁰ Notably, Bobulinski is Hunter Biden’s former business partner who had previously identified President Biden as the “big guy” who would take a stake in a joint company with a Chinese energy company closely linked to the Chinese Communist Party.³⁵¹ Media outlets confirmed that Hunter and James Biden, President Biden’s brother, owned entities that were paid \$4.8 million by CEFC China Energy in a 14-month period.³⁵² As Hunter Biden’s former business partner, Bobulinski has firsthand insight into the financial arrangement, including direct meetings with Hunter Biden and President Biden.³⁵³ Lowell’s demands for an investigation into Bobulinski appear to be another shallow effort to discredit and intimidate a potential witness against Hunter Biden.

³⁴³ Schmidt et al., *supra* note 335.

³⁴⁴ Letter from Chris Clark to David Weiss, U.S. Att’y, Dist. of Del., at 2, 15-17 (Oct. 31, 2022) (on file with Committee).

³⁴⁵ Letter from Chris Clark to Michael Horowitz, Inspector Gen., U.S. Dep’t of Just. (Feb. 8, 2023) (on file with Committee); Letter from Chris Clark to Michael Horowitz, Inspector Gen., U.S. Dep’t of Just. (June 29, 2023) (on file with Committee).

³⁴⁶ Letter from Chris Clark to Bradley Weinsheimer, Associate Deputy Att’y Gen, U.S. Dep’t of Just. (Apr. 21, 2023) (on file with Committee).

³⁴⁷ Letter from Chris Clark to Mark Daly, Lesley Wolf, and Carly Hudson (Apr. 21, 2023) (on file with Committee).

³⁴⁸ Letter from Abbe Lowell to David Weiss, U.S. Att’y, Dist. of Del. (Aug. 14, 2023) (on file with Committee).

³⁴⁹ See 26 U.S.C. § 6103(f)(5).

³⁵⁰ Letter from Abbe Lowell, to Matthew M. Graves, U.S. Att’y, U.S. Dep’t of Just. (Oct. 7, 2023).

³⁵¹ Michael Goodwin, *Hunter biz partner confirms email, details Joe Biden’s push to make millions from China: Goodwin*, N.Y. POST (Oct. 22, 2020) (quoting Bobulinski as stating that “[t]he reference to ‘the Big Guy’ in the much publicized May 13, 2017 email is in fact a reference to Joe Biden.”).

³⁵² Matt Viser et al., *Inside Hunter Biden’s multimillion-dollar deals with a Chinese energy company*, WASH. POST (Mar. 30, 2020).

³⁵³ See Ebony Bowden & Steven Nelson, *Hunter’s ex-partner Tony Bobulinski: Joe Biden’s a liar and here’s the proof*, N.Y. POST (Oct. 22, 2020).

Hunter Biden’s lawyers have engaged in a relentless and shameful campaign to have whistleblowers arrested for making protected disclosures to Congress. They are asking the senior Justice Department officials—officials who serve at the pleasure of the President—to prosecute witnesses for lawful disclosures that are potentially harmful to the President’s son.

D. After a multi-year investigation, Weiss offered Hunter Biden a sweetheart plea deal that fell apart under simple questioning from the judge.

After a five-year investigation, slowed-walked by Biden-appointees and beset by deviations from standard investigative practices, Weiss offered Hunter Biden a sweetheart plea deal for only two misdemeanor tax crimes and a pretrial diversion agreement for a felony firearm offense,³⁵⁴ despite prosecutors and investigators recommending charging Hunter Biden with six felonies and five misdemeanors.³⁵⁵ Further, it was revealed during the hearing on the plea deal that prosecutors and defense counsel did not share the same understanding of the scope of Hunter Biden’s immunity from additional charges.³⁵⁶ While prosecutors understood the immunity provision of the pretrial diversion agreement to only protect Hunter Biden from additional charges related to his tax returns from 2014 to 2019 and his illegal gun purchase in 2014, defense counsel interpreted the immunity provision to also shield Hunter Biden from potential charges related to his foreign business ventures, such as violating the Foreign Agents Registration Act.³⁵⁷ As the Committees have previously noted, “it is difficult to understand how the parties would not have a meeting of the minds regarding a clause of the agreement as fundamental as the scope of the immunity provision, and it raises questions about what discussions have taken place between the Department and Mr. Biden’s counsel regarding the status of those investigations.”³⁵⁸ The judge overseeing the case also inquired as to why prosecutors structured the immunity provision in such a way as to give her no authority to reject it.³⁵⁹

The timing of the public announcement of the plea deal also raises the perception it was designed to avoid public criticism of the investigation. The Biden Justice Department announced the plea deal with Hunter Biden mere days before the Ways and Means Committee disclosed the whistleblower testimony detailing how the Department “provided preferential treatment, slow-walked the investigation, [and] did nothing to avoid obvious conflicts of interest in this investigation.”³⁶⁰

According to public reporting, Hunter Biden’s attorney, Chris Clark, began pressuring the Department to settle Hunter Biden’s case as early as spring of 2022.³⁶¹ From the mid-2022 to early 2023, Clark threatened prosecutors that they faced “career suicide” if they pursued the

³⁵⁴ Carrie Johnson, *Hunter Biden agrees to plead guilty in tax case and avoid prosecution on gun charge*, NPR (June 20, 2023).

³⁵⁵ See Shapley Interview, Ex. 2.

³⁵⁶ Glenn Thrush et al., *Judge Puts Hunter Biden’s Plea Deal on Hold, Questioning Its Details*, N.Y. TIMES (July 26, 2023).

³⁵⁷ *Id.*

³⁵⁸ Letter from Chairmen Jim Jordan, Jason Smith, and Jim Comer to Merrick Garland, Att’y Gen., U.S. Dep’t of Just. (July 31, 2023).

³⁵⁹ Glenn Thrush et al., *Judge Puts Hunter Biden’s Plea Deal on Hold, Questioning Its Details*, N.Y. TIMES (July 26, 2023).

³⁶⁰ Shapley Interview at 10-11.

³⁶¹ Swan, *supra* note 332.

investigation,³⁶² demanded meetings “with people at the highest levels of the Justice Department,”³⁶³ and warned that he would call President Biden to testify as a fact witness for the defense in a potential prosecution.³⁶⁴ He claimed that a prosecution of Hunter Biden would “immediately tarnish the credibility of the Department” as “another example of naked politics influenced by a vendetta of the former President against the current President.”³⁶⁵ Clark even went so far as to tell prosecutors that they would be creating a “Constitutional crisis” by pitting the President against his own Justice Department.³⁶⁶ These threats seemingly worked on Weiss, who allowed the investigation to linger and did not pick the case back up until shortly after the whistleblower disclosures to Congress in May 2023.³⁶⁷

After negotiations with Hunter Biden’s counsel, the Biden Justice Department tried to push through an unprecedented plea deal, which imploded in open court. The negotiations culminated in a plea agreement publicly announced on June 20, 2023.³⁶⁸ The deal would have had Hunter Biden plead guilty to two misdemeanor tax charges, plus a diversion agreement to dismiss a separate felony gun charge if Hunter Biden completed a two-year period of probation.³⁶⁹ The one-of-its-kind agreement shifted a broad immunity provision from the plea agreement to the pretrial diversion agreement, benefiting Hunter Biden with the aim of preventing the District Court from being able to scrutinize and reject that immunity provision.³⁷⁰ It also gave the District Court the sole power to determine whether Hunter Biden breached the pretrial diversion agreement—a prerequisite for the Department to file the diverted charges

³⁶² Shapley Interview at 27; Ziegler Interview at 122.

³⁶³ Swan, *supra* note 332. *See also* Letter from Chris Clark to Lesley Wolf, Assistant U.S. Att’y, Dist. of Del. (Oct. 10, 2022) (on file with Committee) (requesting meetings with the Attorney General, Deputy Attorney General, Assistant Attorney General for the Criminal Division, and U.S. Attorney for the District of Delaware); Letter from Chris Clark to Mark Daly, Senior Litig. Counsel, U.S. Dep’t of Just., Tax Div. (Oct. 10, 2022) (on file with Committee) (requesting meetings with the Attorney General, the Deputy Attorney General, and the Acting Assistant Attorney General for the Tax Division); Letter from Chris Clark to Mark Daly, Senior Litig. Counsel, U.S. Dep’t of Just., Tax Div. (Jan. 31, 2023) (on file with Committee) (requesting meetings with the Attorney General, Deputy Attorney General, and Assistant Attorney General for the Criminal Division); Letter from Chris Clark to David Weiss, U.S. Att’y, Dist. of Del. (Jan. 31, 2023) (on file with Committee) (requesting meetings with the Attorney General, Deputy Attorney General, and Assistant Attorney General for the Criminal Division); Letter from Chris Clark to David Weiss, U.S. Att’y, Dist. of Del. (Feb. 3, 2023) (on file with Committee) (requesting meetings with the Office of Legal Counsel and the Office of the Solicitor General); Letter from Chris Clark to Michael Horowitz, Inspector Gen., U.S. Dep’t of Just. (Feb. 8, 2023) (on file with Committee) (requesting a meeting with the Office of the Inspector General).

³⁶⁴ Letter from Chris Clark to David Weiss, U.S. Att’y, Dist. of Del., at 16 (Oct. 31, 2022) (on file with Committee).

³⁶⁵ *Id.* at 19.

³⁶⁶ *Id.* at 16; Swan, *supra* note 332.

³⁶⁷ Defendant’s Response to the United States’ Motion to Vacate the Court’s Briefing Order at 1, *United States v. Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 13, 2023); *see also* Email from Lesley Wolf, Assistant U.S. Att’y, Dist. of Del., to Chris Clark (May 18, 2023, 10:02 PM) (on file with Committee); James Lynch, *Hunter Biden began negotiating plea deal with DOJ right after IRS whistleblower first came forward, court docs show*, DAILY CALLER (Aug. 14, 2023).

³⁶⁸ Swan, *supra* note 332.

³⁶⁹ Josh Gerstein et al., *Hunter Biden reaches plea deal with feds to resolve tax issues, gun charge*, POLITICO (June 20, 2023).

³⁷⁰ *See* Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att’y Gen., U.S. Dep’t of Just. (July 31, 2023). *See also* Transcript of Record at 46-47, 107, *United States v. Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023).

against him in the future and a provision benefiting Hunter Biden.³⁷¹

On July 26, 2023, Hunter Biden appeared before Judge Maryellen Noreika of the U.S. District Court for the District of Delaware for a hearing on the plea deal.³⁷² The plea deal fell apart when prosecutors and defense attorneys could not provide answers to routine questions about the agreement posed by Judge Noreika.³⁷³ Judge Noreika described the Department’s deal as “not standard” and “different from what I normally see.”³⁷⁴ The deal had an unusual structure, involving both a typical plea agreement, which is presented to the court, and a diversion agreement, which Judge Noreika noted is not.³⁷⁵ Diversion agreements are not approved by a judge, but a probation officer.³⁷⁶

Judge Noreika raised concerns about some “nonstandard terms” contained in the diversion agreement: (1) the “broad immunity” provision within the pretrial diversion agreement that would immunize Hunter Biden for not only the gun-related conduct, but also his unrelated tax crimes,³⁷⁷ and (2) the provision that “invokes the Court or involves the Court as part of that agreement” by prohibiting the government from bringing charges within the scope of the agreement unless and until Judge Noreika first determined that the diversion agreement had been breached.³⁷⁸ Judge Noreika expressed her concerns stating:

I think what I’m concerned about here is that you seem to be asking for the inclusion of the Court in this agreement, yet you’re telling me that I don’t have any role in it, and you’re leaving provisions of the plea agreement out and putting them into an agreement that you are not asking me to sign off on. So I need you to help me understand why this isn’t in the written plea agreement.³⁷⁹

Neither prosecutors from the Biden Justice Department nor Hunter Biden’s counsel could provide a satisfactory explanation to Judge Noreika’s concerns.

First, the government’s promise of immunity, which would usually be in the plea agreement, was for unexplained reasons included in the diversion agreement—meaning Judge Noreika would have no authority over it.³⁸⁰ That immunity provision would immunize Hunter Biden for not only the felony gun charge subject to the diversion agreement, but also his unrelated and uncharged tax crimes.³⁸¹ Judge Noreika noted that she “looked through a bunch of diversion agreements that [she] ha[s] access to . . . [but] couldn’t find anything that had anything

³⁷¹ Transcript of Record at 95, *United States v. Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023).

³⁷² See Swan, *supra* note 332; Schmidt et al., *supra* note 335.

³⁷³ See Swan, *supra* note 332; Schmidt et al., *supra* note 335.

³⁷⁴ Transcript of Record at 10, *United States v. Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July, 26, 2023).

³⁷⁵ *Id.*

³⁷⁶ See *id.* at 51.

³⁷⁷ *Id.* at 46-47, 83.

³⁷⁸ *Id.* at 92-93.

³⁷⁹ *Id.* at 50.

³⁸⁰ *Id.* at 41.

³⁸¹ *Id.* at 46-47.

similar to that.”³⁸² She then asked the government, “Do you have any precedent for agreeing not to prosecute crimes that have nothing to do with the case or the charges being diverted?”³⁸³ Special Assistant U.S. Attorney Leo Wise could not provide any precedent for such a provision.³⁸⁴

Second, Judge Noreika expressed separation of powers concerns pertaining to the provision of the pretrial diversion agreement for the gun charge that would prohibit the Department from bringing charges within the scope of the agreement unless and until Judge Noreika first determined that the diversion agreement had been breached.³⁸⁵ Judge Noreika stated:

Now I have reviewed the case law and I have reviewed the statute and I had understood that the decision to offer the defendant, any defendant a pretrial diversion rest squarely with the prosecutor and consistent with that, you all have told me repeatedly that’s a separate agreement, there is no place for me to sign off on it, and as I think I mentioned earlier, usually I don’t see those agreements. But you all did send it to me and as we’ve discussed, some of it seems like it could be relevant to the plea.

One provision in particular stands out to me, and that is paragraph 14. That paragraph says if the United States believes that a knowing material breach of this agreement has occurred, it may seek a determination by the United States District Judge for the District of Delaware with responsibility for the supervision of this agreement. It then goes on to say that if I do find a breach, then the government can either give the Defendant time to remedy the breach or prosecute him for the crime that is the subject of the information or any other that falls within the language of the agreement. . . . Do you have any authority that any Court has ever accepted that or said that they would do that?³⁸⁶

When neither Wise nor Clark could provide any examples of such an agreement, Judge Noreika stated her concern that the “provision makes me a gatekeeper to criminal charges and puts me in the middle of a decision as to whether to bring a charge. And we already talked about separation of powers and that choice as to whether to bring charges is . . . the executive branch, not the judicial branch, so is this even constitutional?”³⁸⁷ At that point, Clark finally admitted that the unprecedented gatekeeping provision was included for political reasons:

There was a desire because of there being as Your Honor has seen a

³⁸² *Id.* at 45.

³⁸³ *Id.* at 46.

³⁸⁴ *Id.*

³⁸⁵ *Id.* at 92-93.

³⁸⁶ *Id.* at 92-95.

³⁸⁷ *Id.* at 95.

tremendous amount of political drag with this Defendant that the normal mechanism that might take place would have the protection of the Court not in the discretion to bring a charge, but in finding a breach, and so that that wouldn't be something that would become more politicized, but rather would be something that the parties could rely on, someone we consider a neutral arbiter to determine the breach, not the charge.³⁸⁸

In other words, Hunter Biden's lawyers sought to appeal to his unique circumstances as the son of the President to assert that he should receive atypical and seemingly unprecedented treatment in this plea deal. Therefore, they came up with an apparently unprecedented and potentially unconstitutional provision that would prevent prosecutors from filing future charges against Hunter Biden without judicial approval.³⁸⁹ Judge Noreika responded:

I understand. Look, I knew why you brought it, okay, I could see why you would want that provision in here, but . . . the government, the executive branch has the discretion to bring charges. Here, the government does not have discretion to continue to pursue this charge or any other charge unless you include the Court. And that seems like it's getting outside of my lane in terms of what I am allowed to do. And thus, I have concerns about the constitutionality of this provision. That gives me concerns about the constitutionality of this agreement because there doesn't seem to be a separate severability, and that gives me concerns about whether the Defendant has the protection from prosecution that he thinks he's getting if this agreement turns out to be not worth the paper it's written on.³⁹⁰

Ultimately, Judge Noreika concluded that she could not accept the plea agreement and postponed the proceedings.³⁹¹ Subsequent negotiations between Hunter Biden's attorneys and the Justice Department to modify the plea agreement were abandoned before the announcement of Weiss's special counsel appointment.³⁹²

When asked about the failed plea deal, Weiss refused to comment on Judge Noreika's rejection of his office's plea deal for Hunter Biden. Weiss testified:

Q. Okay. On July 26th, the date of this plea agreement, Judge Noreika of U.S. District Court for the District of Delaware declined to accept the Department's plea and pretrial diversion agreements, correct?

³⁸⁸ *Id.* at 97-98.

³⁸⁹ *Id.* at 95-98.

³⁹⁰ *Id.* at 98.

³⁹¹ *Id.* at 98-99, 104-09.

³⁹² U.S. Motion to Voluntarily Dismiss Criminal Tax Information Without Prejudice so that Tax Charges Can Be Brought in a District Where Venue Lies, *United States v. Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 11, 2023).

- A. I'm not going to comment on Judge Noreika's decision at all. I'm just not going to offer any comment in that regard.
- Q. Okay. But she declines to—I mean, I don't mean to be difficult here, but—
- A. The plea agreement did not go forward.
- Q. Okay. Because of the judge?
- A. I'm not going to comment on why, who said what, the judge's comments. We're in the matter before the judge as we speak, so I'm not going to say anything in that regard.³⁹³

After five years of investigating, the only thing Weiss had to show for the investigation was an unprecedented sweetheart plea deal, which overtly appealed to the defendant's special status as the President's son to justify special treatment from the court. This sweetheart plea deal fell apart under scrutiny from a federal judge, leading to the Attorney General's appointment of Weiss as special counsel. Accordingly, Weiss's attempted plea deal is an important part of understanding the extent to which Weiss deviated from standard investigative practices in this case in a manner favorable to Hunter Biden, and his refusal to answer the Committee's questions speak loudly about his inability to defend his actions.

E. Line investigators believe the Hunter Biden investigation is proceeding too slowly, potentially allowing the statute of limitations to lapse on additional charges.

Following the failed plea deal, Weiss requested special counsel status from Attorney General Garland.³⁹⁴ On August 11, 2023, Attorney General Garland appointed Weiss as special counsel to continue the investigation of Hunter Biden.³⁹⁵ During his announcement, Attorney General Garland stated that he was “confident that Weiss will carry out his responsibility in an even-handed and urgent matter, and in accordance with the highest traditions of this Department.”³⁹⁶ However, testimony to date, including testimony from Weiss himself, shows that this investigation has been anything but urgent.

Both IRS whistleblowers detailed the efforts that the Justice Department took to slow the case against Hunter Biden down. Shapley stated that, “[i]t was apparent that DOJ was purposely slow-walking investigative actions in this matter.”³⁹⁷ Similarly, Ziegler testified that he tried “to point out that the slow-walking and approvals for everything, a lot of that happened at the U.S.

³⁹³ Weiss Interview at 138.

³⁹⁴ Press Release, U.S. Dep't of Just., Appointment of a Special Counsel (Aug. 11, 2023).

³⁹⁵ OFF. OF THE ATT'Y GEN., ORDER NO. 5730-2023, APPOINTMENT OF DAVID C. WEISS AS SPECIAL COUNSEL (2023).

³⁹⁶ Press Release, U.S. Dep't of Just., Appointment of a Special Counsel (Aug. 11, 2023).

³⁹⁷ Shapley Interview at 13.

Attorney's Office in Delaware and DOJ Tax level."³⁹⁸ Multiple witnesses corroborated the whistleblowers' frustration.

Testimony from Sobocinski and Holley, both from the FBI's Baltimore Field Office, underscored the whistleblowers' concern that the Department was not moving at its typical pace in its investigation of Hunter Biden and instead was "slow-walking" the case.³⁹⁹ Sobocinski described his frustration with the pace of the investigation multiple times, testifying that his goal was to get the case to a "resolution."⁴⁰⁰ He also stated he "would have liked [the investigation] to move faster."⁴⁰¹ Sobocinski stated:

Q. Was this case moving slow? You said like at least—

A. Yup.

Q. —three dozen times you wanted to get this thing to resolution. And so that sort of suggests that it wasn't getting to resolution and you thought it should be moving a little faster pace.

A. I would have liked for it to move faster.⁴⁰²

Holley likewise expressed "overall frustrat[ion]" about the slow pace of the investigative process.⁴⁰³ Sobocinski and Holley's frustration not only affirms the whistleblowers' testimony regarding the pace of the investigation, but it also creates a perception that the Justice Department sought to purposefully slow down any potential prosecution of the President's son.

Weiss even acknowledged that the case "lingered."⁴⁰⁴ Without ever defending the pace of this investigation, he testified:

Q. Do you have any goal as to when you'd like to bring it to conclusion?

A. Two weeks ago. No, I say—again, I say that in jest, but no. Look, I recognize that it's never good for cases to linger, so I am interested in efficiency to the extent possible.

Q. It's been 5 years.

³⁹⁸ Ziegler Interview at 92.

³⁹⁹ See Shapley Interview at 13 ("It was apparent that DOJ was purposely slow-walking investigative actions in this matter."); Ziegler Interview at 92 ("As far as my leadership goes, we're trying to point out that the slow-walking and the approvals for everything, a lot of that happened at the U.S. Attorney's Office in Delaware and DOJ Tax level.").

⁴⁰⁰ Sobocinski Interview at 34.

⁴⁰¹ *Id.* at 99.

⁴⁰² *Id.*

⁴⁰³ Holley Interview at 104.

⁴⁰⁴ Weiss Interview at 151.

- A. I understand that . . . I absolutely do.
- Q. So that doesn't—you just used the term “linger.” That doesn't fit the definition of “linger”?
- A. I understand your question and appreciate it.⁴⁰⁵

However, despite appreciating that the investigation had “linger[ed]” for five years, Weiss refused to provide the Committee with any sort of timeline for when the investigation will be completed.⁴⁰⁶ When asked if he would need another five years, Weiss stated, “I'm not going to put a timeframe on it” but “we plan to move as efficiently as possible.”⁴⁰⁷

However, Weiss testified that the investigation is being run out of the office space afforded to the special counsel team, which is separate from the USAO for the District of Delaware.⁴⁰⁸ Weiss additionally testified that, as of the date of his transcribed interview, he was still “building the [special counsel] team,” although he would not say how many individuals are currently working on the investigation.⁴⁰⁹ He testified:

- Q. Since you've been appointed Special Counsel, did you get more staff?
- A. I don't want to get into the particulars of the staff, and I continue to work on building the team, but I'm not going to get into the particulars.
- Q. Do you have separate office space?
- A. I do have separate office space.
- Q. Okay. And you're housed in Delaware?
- A. I am housed in Delaware.
- Q. Okay. So it's totally separate office as Special Counsel from the U.S. Attorney?
- A. It is.⁴¹⁰

And when asked for a timeline of the investigation and its completion, Weiss testified:

⁴⁰⁵ *Id.* at 150.

⁴⁰⁶ *Id.* at 175.

⁴⁰⁷ *Id.*

⁴⁰⁸ Sobocinski Interview at 117-18.

⁴⁰⁹ Weiss Interview at 117.

⁴¹⁰ *Id.*

- Q. So wh[en] do you believe you'll be able to complete . . . the current investigation? Are you planning to do it urgently, or are you going to spend another 5 years? . . .
- A. Yeah, I'm not going to put a timeframe on it. As I said previously in response to counsel's questions, we plan to move as efficiently as possible.⁴¹¹

Despite Weiss's alleged urgency—and Attorney General Garland's statement that Weiss will work in an "urgent manner"⁴¹²—his actions say something completely different. Rather than moving forward in an urgent manner, the current pace of the investigation seems to run the risk of allowing the statute of limitations to lapse on additional charges potentially facing Hunter Biden.

F. The Biden Justice Department's unilateral scoping limitations and inadequate document productions have severely curtailed the Committees' ability to gather information.

Since the whistleblowers came forward in the spring of 2023, the Biden Justice Department refused to cooperate fully and completely with the Committees' investigation. In response to the Committees' letters seeking pertinent documents, communications, and other information, the Justice Department, time and time again, failed to substantially comply, citing the Department's "ongoing investigation."⁴¹³ The Justice Department also unilaterally and improperly limited the scope of authorized testimony for witnesses appearing before the Committees.

On February 28, 2023, the Judiciary Committee first requested documents pertaining to the Department's handling of the Hunter Biden investigation due to the potential conflict of interest inherent in an investigation into the President's son.⁴¹⁴ The Judiciary Committee sought documents to determine why Attorney General Garland had declined to appoint a special counsel in the Hunter Biden matter, despite appointing special counsels in other investigations. The Department did not respond until August 25, 2023—after Garland had belatedly appointed Weiss as special counsel—and only has produced 27 pages of documents that contained excessive redactions and were not responsive to the Committee's requests.⁴¹⁵

On May 25, 2023, the Judiciary Committee again wrote to Attorney General Garland requesting documents and information related to the Department's removal of IRS Supervisory Special Agent Shapley and his entire investigative team from the Hunter Biden investigation

⁴¹¹ *Id.* at 175.

⁴¹² Press Release, U.S. Dep't of Just., Appointment of a Special Counsel (Aug. 11, 2023).

⁴¹³ *See, e.g.*, Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., U.S. Dep't of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Sept. 22, 2023)

⁴¹⁴ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (Feb. 28, 2023).

⁴¹⁵ Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., U.S. Dep't of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 25, 2023).

shortly after Shapley made protected disclosures to Congress.⁴¹⁶ While Attorney Garland did not respond, Weiss wrote to the Committee instead on June 7, 2023, stating “the Department is not at liberty to respond.”⁴¹⁷ On June 22, 2023, the Judiciary Committee reiterated the request for material regarding the apparent whistleblower retaliation.⁴¹⁸ On June 30, 2023, Weiss responded, stating again that he “is not at liberty to provide the materials you seek.”⁴¹⁹

On July 31, 2023, the Committees wrote once more, requesting documents pertaining to the unusual plea and pretrial diversion agreements with Hunter Biden.⁴²⁰ The Department responded on August 14, 2023, stating that it is working to identify what information may be available for the Committees and that it “commit[s] to supplementing” its response.⁴²¹ Despite the Department’s stated commitment to supplement its response, to date, the Committees have yet to receive any documents responsive to the July 31 requests.

On August 28, 2023, the Committees wrote to Attorney General Garland regarding the widespread concerns with his appointment of Weiss as special counsel.⁴²² On September 11, 2023, the Department reproduced to the Committees a copy of the Attorney General’s order outlining the appointment of Weiss—which had previously been provided to the Committees—and refused to produce any of the other requested documents or communications.⁴²³

On September 12, 2023, the Committees wrote to Attorney General Garland regarding the brazen attempts by Hunter Biden’s legal team to intimidate and harass the whistleblowers who detailed—and now have further substantiated⁴²⁴—numerous irregularities in the Department’s investigation of Hunter Biden.⁴²⁵ To date, the Department has not responded to the Committees’ September 12 letter about Hunter Biden’s attempts to intimidate the IRS whistleblowers.

⁴¹⁶ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Merrick B. Garland, Att’y Gen., U.S. Dep’t of Just. (May 25, 2023).

⁴¹⁷ Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 7, 2023).

⁴¹⁸ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to David C. Weiss, U.S. Att’y, Dist. of Del. (June 22, 2023).

⁴¹⁹ Letter from David C. Weiss, U.S. Att’y, Dist. of Del., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 30, 2023).

⁴²⁰ Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att’y Gen., U.S. Dep’t of Just. (July 31, 2023).

⁴²¹ Letter from Carlos Felipe Uriarte, Assistant Att’y Gen., U.S. Dep’t of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 14, 2023).

⁴²² Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att’y Gen., U.S. Dep’t of Just. (Aug. 28, 2023).

⁴²³ Letter from Carlos Felipe Uriarte, Assistant Att’y Gen., U.S. Dep’t of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Sept. 11, 2023).

⁴²⁴ See Press Release, H. Comm. on Ways and Means, *Bombshell: Ways and Means Releases New Documents Revealing Hunter Biden Selling Access to White House, Investigators Blocked from Pursuing Evidence Related to President Biden* (Sept. 27, 2023); see also Josh Christenson, *Hunter Biden prosecutor ignored evidence for months: whistleblower documents*, N.Y. POST (Sept. 27, 2023).

⁴²⁵ Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att’y Gen., U.S. Dep’t of Just. (Sept. 12, 2023).

Although the Committees have made many requests for documents concerning the Department's handling of the Hunter Biden investigation since the beginning of the 118th Congress,⁴²⁶ the Committees agreed to proceed with witness interviews without the relevant documents as a significant accommodation to the Department. But shortly before each interview, the Department sent each witness a letter that unilaterally limited the scope of what each witness was authorized to discuss with the Judiciary Committee—limiting approved testimony to only two topics: (1) statements made by Weiss regarding his authority at an October 7, 2022 meeting, and (2) statements made by Weiss to Congress regarding his authority in investigating Hunter Biden.⁴²⁷ Notably, the Committee had never agreed to these extreme scope limitations, and had never even been consulted about whether the limitations would be acceptable.

Throughout the Committee's questioning of witnesses, the Department counsel who accompanied the witness would often not allow witnesses to answer specific and relevant questions necessary for the Committee's investigation. For example, during the transcribed interview of Stuart Goldberg, the following exchange occurred:

Q. And are you able to tell us anything about what happened with the Hunter Biden case in terms of the process?

DOJ. He is not.

Q. Do you know whether a prosecution report was drafted by DOJ Tax after receiving the special agent report?

DOJ. To the extent there is a general process that applies in all cases, he can speak to that.

Q. Well, no, I'm asking about the Hunter Biden case. Do you know whether a prosecution report was prepared by DOJ Tax?

DOJ. And I'm saying he can't speak about the ongoing investigation. And so if there –

Q. He's not asking what was in the report, he's asking was it prepared.

DOJ. Right. Yes, I understood the question. But the scope of his authorization does not allow him to speak about the ongoing

⁴²⁶ See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (Feb. 28, 2023).

⁴²⁷ See Letter from Bradley Weinsheimer, Assistant Deputy Att'y Gen., U.S. Dep't of Just., to Thomas J. Sobocinski, Special Agent in Charge, Balt. Field Off., Fed. Bureau of Investigation (Sept. 6, 2023); Letter from Bradley Weinsheimer, Assistant Deputy Att'y Gen., U.S. Dep't of Just., to Ryeisha Holley, Assistant Special Agent in Charge, Balt. Field Off., Fed. Bureau of Investigation (Sept. 8, 2023).

investigation, whether it involves the contents or the fact of something that is prepared as part of the process.⁴²⁸

Later during the interview, Goldberg was asked if he “remember[ed] the purpose of the [June 15] meeting” about the 2014 and 2015 tax year charges.⁴²⁹ The Justice Department counsel interjected, “And once we start getting into purpose, what happened at the meeting, those go beyond the scope of his authorization.”⁴³⁰

During the transcribed interview of U.S. Attorney Graves, the Justice Department’s counsel again limited the testimony of Graves. In one exchange:

Q. So you’re not going to answer?

A. I agree it’s outside the scope. I could say it’s a matter of public record that the office has cross staffed with other special counsels.

Q. Okay. Have you ever recommended to another special counsel that they shouldn’t move forward with a case?

A. I could say, in general, I don’t recall weighing in or opining on a matter that is not in my office what that component head should or should not do, special counsel or regardless. That’s for them to decide.

Q. Okay. Do you recall any discussions about a campaign finance charge related to the Hunter Biden tax matter?

DOJ. Just even answering yes or no to that question, as I think you know, gets into questions associated with the ongoing investigation and prosecution, and it’s outside the scope of what he’s authorized to discuss.⁴³¹

The questions posed to the witnesses are critical to the Committees’ investigation—and the Department knows this. The Department’s decision to unilaterally limit witness testimony unnecessarily hinders the Committees’ oversight and prevents the Committees from gathering all necessary evidence.

The Department also directed two Tax Division employees, Senior Litigation Counsel Mark Daly and Trial Attorney Jack Morgan, to disregard lawfully issued deposition subpoenas

⁴²⁸ Goldberg Interview at 24-25.

⁴²⁹ *Id.* at 30.

⁴³⁰ *Id.*

⁴³¹ Graves Interview at 145.

from the Judiciary Committee.⁴³² As a result, both employees failed to appear for their respective depositions, despite representations from their personal counsel that they were willing to appear but for the Department’s directive.⁴³³ The Department’s directives resulted in the Judiciary Committee being unable to procure the testimony of two witnesses whose knowledge of the day-to-day operation of the Hunter Biden investigation is critical to this oversight. The Department’s directives are even more concerning in light of its earlier requests that the Judiciary Committee delay the dates of Daly’s and Morgan’s depositions to accommodate Daly’s and Morgan’s schedules. The Committee agreed to postpone the depositions for nearly a month as an accommodation to the Department. As it now appears that the Department always intended to direct Daly and Morgan not to appear, the Department’s request to postpone the deposition seems to be a bad-faith attempt to delay the Committee’s oversight.⁴³⁴

The Department’s response to the Committees’ requests has been wholly inadequate, and there is no valid basis for the Department to obstruct the Committees’ inquiry. The Department’s suggestion that it can dictate the “timing and scope”⁴³⁵ of the Committees’ oversight because of the ongoing nature of the Department’s investigation lacks any valid legal basis and severely curtails the Committees’ ability to gather information from Department witnesses. The Department’s claim “rests on no constitutional privilege or case law authority” but rather on self-serving opinions unilaterally issued by the Department.⁴³⁶ In fact, there is ample legal and historical precedent contradicting the Department’s assertion—that is, precedent of congressional committees conducting oversight of matters that are the subjects of ongoing investigations.⁴³⁷ The historical record is replete with examples of the Department providing information related to

⁴³² See Deposition of Mark Daly, Senior Litig. Counsel, U.S. Dep’t of Just., Tax Div. (Oct. 26, 2023) [hereinafter Daly Deposition]; Deposition of Jack Morgan, Trial Att’y, U.S. Dep’t of Just., Tax Div. (Nov. 6, 2023) [hereinafter Morgan Deposition].

⁴³³ See Daly Deposition at 3 (“Mr. Daly’s personal counsel indicated to us that Mr. Daly was willing to appear and answer our questions. But obviously, he has received an order from the Justice Department not to appear.”); Morgan Deposition at 4-5 (“Mr. Morgan[] has no per se objection to testifying, but, given the competing constitutional claims and interests expressed by his employer, the Department of Justice, he will be following his employer’s directive.”).

⁴³⁴ See Daly Deposition at 3; Morgan Deposition at 5.

⁴³⁵ See Letter from Carlos Felipe Uriarte, Assistant Att’y Gen., U.S. Dep’t of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 13, 2023).

⁴³⁶ *Obstruction of Justice: Does the Justice Department Have to Respond to Lawfully Issued and Valid Congressional Subpoenas*, Hearing Before the H. Comm. on Oversight and Gov’t Reform, 112th Cong. (2011) (statement of Morton Rosenberg, Fellow, Const. Project). See also William McGurn, Opinion, *The ‘Ongoing Investigation’ Dodge on Hunter Biden*, WALL ST. J. (July 10, 2023) (quoting former Assistant U.S. Attorney Andrew McCarthy as stating, “The executive branch response of ‘ongoing investigation’ is really a political objection, rather than a legal one. There is no ‘ongoing investigation’ privilege.”).

⁴³⁷ See WHEN CONGRESS COMES CALLING, at 75-82 (listing numerous examples of Congress obtaining testimony related to an ongoing criminal investigation); Christopher R. Smith, *I Fought the Law and the Law Lost: The Case for Congressional Oversight Over Systemic DOJ Discovery Abuse in Criminal Cases*, 9 CARDOZO PUB. L. POL’Y & ETHICS J. 85, 107 (2010) (“To preclude Congress from investigating prosecutorial misconduct because of open investigations would completely undermine Congress’s constitutional duty to investigate government misconduct, an important legislative branch check on the executive branch.”); Tristan Leavitt & Jason Foster, *No, Appointing A ‘Special Counsel’ Is Not A License For DOJ To Obstruct Congress*, THE FEDERALIST (Aug. 21, 2023) (listing “just a handful of the dozens [of instances] from the past century” in which Congress “obtained testimony and documents from prosecutors involved in active probes, including deliberative prosecutorial memoranda”).

ongoing criminal investigations to congressional committees,⁴³⁸ including the exact type of evidence the Committees are looking for in this investigation.⁴³⁹ Courts have also recognized that partisan influence of the prosecutorial process is an appropriate target for congressional oversight.⁴⁴⁰ The Department's claim that material sought by the Committees is protected by the deliberative process privilege similarly lacks merit given that, according to the D.C. Circuit, this privilege "disappears altogether when there is any reason to believe government misconduct occurred."⁴⁴¹ Simply put, the Department's frivolous assertions are nothing more than a transparent effort to evade congressional scrutiny.

⁴³⁸ See *Obstruction of Justice: Does the Justice Department Have to Respond to Lawfully Issued and Valid Congressional Subpoenas*, Hearing Before the H. Comm. on Oversight and Gov't Reform, 112th Cong. (2011) (statement of Louis Fisher, Scholar in Residence, Const. Project) ("Congress has often obtained records related to ongoing criminal investigations."); *WHEN CONGRESS COMES CALLING*, at 83 ("[T]he oft-repeated claim that the [D]epartment [of Justice] never has allowed congressional access to open or closed litigation files or other 'sensitive' internal deliberative process matters is simply not accurate.").

⁴³⁹ *WHEN CONGRESS COMES CALLING*, at 76-77 (stating that over the past century congressional committees have "sought and obtained a wide variety of evidence, including: . . . the testimony of line attorneys and other subordinate agency employees regarding the conduct of open and closed cases; and detailed testimony about specific instances of the Department's failure to prosecute cases that allegedly merited prosecution.").

⁴⁴⁰ See *Comm. on the Judiciary v. Miers*, 558 F. Supp. 2d 53, 78 (D.D.C. 2008) ("[G]iven [Congress's] unique ability to address improper partisan influence in the prosecutorial process . . . [n]o other institution will fill the vacuum if Congress is unable to investigate and respond to this evil." (internal quotation marks omitted)).

⁴⁴¹ *In re Sealed Case*, 121 F.3d 729, 746 (D.C. Cir. 1997).

CONCLUSION

The Committees' investigative work to date has revealed that the Justice Department afforded Hunter Biden—the President's son—preferential treatment throughout its investigation of his numerous alleged crimes, and then sought to cover up its actions after two courageous IRS agents stepped forward to blow the whistle on the Department's deviations from its investigative standards. The Department's concerning actions and kid-glove treatment of Hunter Biden serves as yet another example of the two-tiered justice system at the Biden Justice Department.

To date, the testimony and documents received by the Committees corroborate the whistleblowers' testimony that the Justice Department slow-walked its investigation of Hunter Biden and deviated from standard procedures in a way that favored Hunter Biden. The Committees have evidence that the U.S. Attorney's Office in Delaware worked to remove Hunter Biden's name from search warrants and subpoenas; prohibited investigators from asking about President Biden during witness interviews; tipped off defense counsel about investigative steps; and even allowed the statute of limitations on serious potential crimes to lapse. Additionally, contrary to his assertions to Congress, U.S. Attorney Weiss did not have "ultimate authority" over the Hunter Biden case. Instead, Biden Administration political appointees exercised significant oversight and control over the investigation. As one example, the Biden Justice Department worked closely with Hunter Biden's counsel to craft an unprecedented plea deal, that was so biased in the direction of Hunter Biden, it fell apart in open court.

The Committees are committed to ensuring that all Americans receive fair and uniform treatment under the law. The Committees' work is not complete, and the Committees' oversight will continue despite the Biden Administration's attempts to severely limit, obstruct, and curtail the Committees' inquiry. The Committees will continue to pursue relevant documents and seek key testimony from individuals that were intimately involved in the Department's mishandling of the Hunter Biden investigation.⁴⁴² The Committees' continued oversight will inform the ongoing impeachment inquiry,⁴⁴³ as well as inform potential legislation, which could include strengthening laws protecting whistleblowers from retaliation, reforming the "special attorney" statute,⁴⁴⁴ codifying the special counsel regulations,⁴⁴⁵ and reforming the Department's Tax Division. The Committees will supplement this interim staff report as necessary.

⁴⁴² See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (June 29, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (July 21, 2023).

⁴⁴³ Memorandum from Chairmen Jim Jordan, James Comer, and Jason Smith, to Members of the H. Comm. on the Judiciary, H. Comm. on Oversight & Accountability, and H. Comm. on Ways & Means (Sept. 27, 2023).

⁴⁴⁴ See 28 U.S.C. § 515.

⁴⁴⁵ See 28 C.F.R. § 600 *et seq.*