

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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August 21, 2023

Ms. Ryeshia Holley  
Assistant Special Agent in Charge  
Baltimore Field Office  
Federal Bureau of Investigation  
2600 Lord Baltimore Drive  
Baltimore, MD 21244

Dear Ms. Holley:

The Committee on the Judiciary is conducting oversight of the Executive Branch's commitment to impartial justice, as well as investigating the veracity of statements made in response to congressional inquiries related to the Department of Justice's investigation of Hunter Biden. As a part of this oversight, the Committee requires testimony from several Department officials, including you, who have first-hand knowledge of the Department's investigation.

In a letter dated June 29, 2023, the Committee, along with the Committees on Ways and Means and Oversight and Accountability, requested transcribed interviews with eleven Department officials, including you.<sup>1</sup> The Department declined the request for voluntary compliance.<sup>2</sup> On July 21, 2023, the three Committees made a second request for voluntary transcribed interviews.<sup>3</sup> Once again, the Department did not agree.<sup>4</sup> As such, the request for information from Department officials remains outstanding.

According to publicly available information, the Department and FBI have been investigating tax and other matters concerning Hunter Biden since at least 2019.<sup>5</sup> The

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<sup>1</sup> Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (June 29, 2023).

<sup>2</sup> 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).

<sup>3</sup> Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (July 21, 2023).

<sup>4</sup> 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 24, 2023).

<sup>5</sup> Letter from Merrick B. Garland, Att'y Gen., U.S. Dep't of Just., to Sen. Richard J. Durbin, Chair, S. Comm. on the Judiciary, et al. (Aug. 11, 2023). *See also*, Lucien Bruggeman, *What to know about the Hunter Biden federal*

investigation has been led by David Weiss, U.S. Attorney for the District of Delaware, and the FBI's Wilmington Resident Office, part of the Baltimore Field Office. Veteran Internal Revenue Service (IRS) investigators have revealed how the Department deviated from its established practices in this investigation, preventing investigators from speaking to certain witnesses or pursuing certain lines of inquiry. As one investigator explained: "The normal process must be followed. If search warrants or witness interviews or document requests that include the actual subjects' names are not allowed, for example, that is simply a deviation from the normal process that provided preferential treatment, in this case to Hunter Biden."<sup>6</sup>

An FBI supervisory special agent later corroborated these allegations in transcribed testimony, stating that FBI Headquarters preemptively tipped off U.S. Secret Service Headquarters and the Biden transition team about investigators' plan to interview Hunter Biden and other case subjects the following day.<sup>7</sup> Additionally, for the first time in his twenty-year career with the Bureau, this supervisory special agent was told that he had to wait outside the case target's house to arrange an interview with the target after the target first contacted him.<sup>8</sup> The Committee is concerned by these allegations because they illustrate abnormal conduct from federal law enforcement in carrying out its investigative duties.

In May 2023, around the time the whistleblowers first testified to the Committee on Ways and Means about irregularities in the Department's investigation, the Department began negotiating with Hunter Biden's lawyers about potential plea and pretrial diversion agreements.<sup>9</sup> The agreements, reached on June 20, 2023, shifted a broad immunity provision from the plea agreement to the pretrial diversion agreement, which would have benefitted Hunter Biden and prevented the District Court from being able to scrutinize and reject that immunity provision.<sup>10</sup> Additionally, the Department would have given up its ability to bring charges against Hunter Biden at a later date if it concluded that he had breached the pretrial diversion agreement.<sup>11</sup> Rather, the Department would then have to seek District Court's permission to bring charges, even though the District Court normally has no role in overseeing a pretrial diversion agreement in that manner.<sup>12</sup> U.S. Attorney Weiss signed off on this unconventional agreement.

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*investigations*, ABC NEWS (July 26, 2023); Carrie Johnson, *Garland names special counsel in Hunter Biden investigation*, NPR (Aug. 11, 2023).

<sup>6</sup> Transcribed Interview of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv. at 10 (May 26, 2023) [hereinafter Shapley Interview].

<sup>7</sup> Transcribed Interview of [Redacted], Supervisory Special Agent, Fed. Bureau of Investigation at 32-33 (July 17, 2023).

<sup>8</sup> Transcribed Interview of [Redacted], Supervisory Special Agent, Fed. Bureau of Investigation at 34 (July 17, 2023).

<sup>9</sup> Defendant's Response to the U.S. Motion to Vacate the Court's Briefing Order, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 13, 2023). *See also*, Jessica Lynch, *Hunter Biden began negotiating plea deal with DOJ right after IRS whistleblower first came forward, court docs show*, DAILY CALLER (Aug. 14, 2023).

<sup>10</sup> 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).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* *See also*, Transcript of Record at 104, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023).

On July 26, 2023, Judge Maryellen Noreika of the United States District Court for the District of Delaware declined to accept the Department's unusual plea and pretrial diversion agreements with Hunter Biden.<sup>13</sup> Subsequently, the Department has moved to withdraw the criminal information filed before the District Court in Delaware, stating that plea negotiations were "at an impasse."<sup>14</sup> Although the Department had previously agreed to bring the case in Delaware to allow Hunter Biden to plead guilty, it now has asserted to the Court that the proper venue for Mr. Biden's offenses were in Washington, D.C. or California.<sup>15</sup> With the plea negotiations stalled, the Department has indicated it intends to restart prosecution, believing that "the case will not resolve short of a trial."<sup>16</sup>

The Department's filings came shortly after Attorney General Merrick Garland named U.S. Attorney David Weiss as special counsel.<sup>17</sup> Although both Attorney General Garland and Mr. Weiss had stated that Mr. Weiss had "ultimate authority" over the investigation and prosecution of Hunter Biden, the Attorney General now asserted that special counsel status was necessary to pursue the case. In other words, after roughly four years of investigating and making critical decisions with the FBI, the Department now needs a special counsel due to the "extraordinary circumstances" relating to Mr. Biden's case.<sup>18</sup> The timing of this decision also comes after whistleblowers have raised serious and unchallenged allegations of impropriety in the Department's investigation.<sup>19</sup> The decision to grant Weiss special counsel status, especially in light of his handling of the case to date and his inconsistent statements to Congress about his authority, raises serious questions about the Department's handling of this investigation, and reinforces the Committee's need to speak with individuals with knowledge of the investigation.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."<sup>20</sup> Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of the Department as well as criminal justice matters in the United States to inform potential legislative reforms.<sup>21</sup> In this matter, potential

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<sup>13</sup> Transcript of Record at 108, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023). *See also*, Glenn Thrush and Michael S. Schmidt, *Judge delays Hunter Biden plea deal*, N.Y. TIMES (July 26, 2023); Perry Stein, Karl Baker, Devlin Barrett, and Matt Viser, *Judge puts Hunter Biden guilty plea on hold for now*, WASH. POST (July 26, 2023); Phil McCausland and Tom Winter, *Hunter Biden pleads not guilty after plea deal is derailed*, NBC NEWS (July 26, 2023).

<sup>14</sup> U.S. Motion to Voluntarily Dismiss Criminal Tax Information Without Prejudice so that Tax Charges Can Be Brought in a District Where Venue Lies, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 11, 2023) [hereinafter U.S. Motion to Voluntarily Dismiss]. *See also*, Kaelan Deese, *Hunter Biden investigation: Prosecutors are at 'impasse' on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).

<sup>15</sup> U.S. Motion to Voluntarily Dismiss.

<sup>16</sup> *Id.* *See also*, Erin Doherty, *Plea deal "impasse" exposes Hunter Biden to federal trial*, AXIOS (Aug. 11, 2023).

<sup>17</sup> Off. of the Att'y Gen., Order No. 5730-2023, Appointment of David C. Weiss as Special Counsel (2023). *See also*, Kaelan Deese, *Hunter Biden investigation: Prosecutors are at 'impasse' on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).

<sup>21</sup> Rules of the U.S. House of Representatives, R. X (2023).

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legislation could include, but is not limited to, strengthening laws protecting whistleblowers from retaliation, reforming the “special attorney” statute,<sup>22</sup> codifying the special counsel regulations,<sup>23</sup> and reforming the Department’s Tax Division.

The Supreme Court has also recognized that Congress may seek information from the Executive Branch about “corruption, maladministration or inefficiency in agencies of the Government.”<sup>24</sup> Here, whistleblowers have brought forward numerous concerns—backed by contemporaneous documentary evidence—of corruption (e.g., preferential treatment for the President’s son), maladministration (e.g., retaliation against whistleblowers), and inefficiency (e.g., an investigation so bogged down by delays and micromanagement that the statute of limitations lapsed before prosecutors could file certain charges). These are among the matters about which the Committees require testimony to inform potential legislative reforms.

Based on information provided by whistleblowers and made available to the Committee, you have unique information that is relevant and necessary to inform our oversight and potential legislative reforms.<sup>25</sup> For instance, according to whistleblower testimony, you attended a meeting on October 7, 2022, at which U.S. Attorney David Weiss allegedly said he was “not the deciding official on whether charges are filed” against Hunter Biden.<sup>26</sup> Additionally, as Assistant Special Agent in Charge of the Bureau’s Baltimore Field Office, you would have had oversight of the Hunter Biden investigation in the Wilmington Resident Office.<sup>27</sup> The Committee has sought to obtain the Department’s voluntary compliance with our request to conduct a transcribed interview with you, and has engaged in good faith with the Department to address the purported reasons why it could not comply. Even still, the Department has not agreed to make you available.

Accordingly, and considering the Department’s non-compliance with our earlier voluntary requests, please find attached a subpoena compelling your appearance at a deposition.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

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<sup>22</sup> See 28 U.S.C. § 515.

<sup>23</sup> See 28 C.F.R. § 600 *et seq.*

<sup>24</sup> *Watkins v. United States*, 354 U.S. 178, 200 n.33 (1957).

<sup>25</sup> See generally, Shapley Interview; Transcribed Interview of Joseph Ziegler, Special Agent, Internal Revenue Serv. (June 1, 2023).

<sup>26</sup> Shapley Interview at 178.

<sup>27</sup> *Contact Us*, Fed. Bureau of Investigation, <https://www.fbi.gov/contact-us/field-offices/baltimore/about> (last visited Aug. 15, 2023).