

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906
judiciary.house.gov

November 21, 2023

Ms. Lesley Wolf
Assistant U.S. Attorney
U.S. Attorney's Office, District of Delaware
1313 North Market Street
Wilmington, DE 19801

Dear Ms. Wolf:

The Committee on the Judiciary (the Committee) 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. The Committee is also investigating whether sufficient grounds exist to draft articles of impeachment against President Biden for consideration by the full House. Along with House Ways and Means Chairman Jason Smith and House Oversight and Accountability Chairman James Comer, we set forth in a September 27, 2023, memorandum the evidence justifying the inquiry and the scope of this impeachment investigation. As a part of its investigations, the Committee has determined that it requires your testimony because you have first-hand knowledge of the Department's criminal inquiry of Hunter Biden. In light of the Department's refusal to make you available for a voluntary transcribed interview, we have no choice but to compel your testimony at a deposition.

On June 29, 2023, the Committee, along with the Committee on Ways and Means and the Committee on Oversight and Accountability, wrote to Attorney General Merrick Garland asking that he allow several Department of Justice officials, including you, to sit for transcribed interviews.¹ The Department did not comply with our request.² On July 21, 2023, we reiterated our request,³ and again the Department did not comply.⁴ After additional communications and attempts by the Committee to accommodate the Department's stated concerns, the Department

¹ 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).

² 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).

³ 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).

⁴ 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).

finally made six employees available for transcribed interviews, albeit with substantial scope limitations.⁵ However, our request for your testimony remains outstanding.

Based on the Committee's investigation to date, it is clear that you possess specialized and unique information that is unavailable to the Committee through other sources and without which the Committee's inquiry would be incomplete.⁶ Witness testimony and public reporting indicates that as an Assistant U.S. Attorney for the U.S. Attorney's Office for the District of Delaware, you were directly involved in that office's investigation of Hunter Biden, which deviated from standard investigative procedures. For example, among other things:

- According to whistleblower testimony, you attended a substantial majority, if not all, of the prosecution team meetings concerning the Department's investigation of Hunter Biden.⁷
- Information available to the Committee suggests that you—either directly or by instructing others—are responsible for many of the decisions to deviate from standard investigative protocol during the Department's investigation of Hunter Biden, including:
 - Telling defense counsel about a potential search warrant for Hunter Biden's abandoned storage unit and later objecting to executing a search warrant on the storage unit;⁸
 - Prohibiting investigators from asking witnesses about “the big guy” or “dad,”⁹ presumably referring to President Biden;¹⁰

⁵ See Transcribed Interview of Stuart Goldberg, Acting Deputy Assistant Att'y Gen. for Crim. Matters, U.S. Dep't of Just., Tax Div. (Oct. 25, 2023) [hereinafter Goldberg Interview]; Transcribed Interview of E. Martin Estrada, U.S. Att'y, Cent. Dist. of Cal. (Oct. 24, 2023); Transcribed Interview of Matthew Graves, U.S. Att'y, Dist. of Columbia (Oct. 3, 2023); Transcribed Interview of Ryeshia Holley, Assistant Special Agent in Charge, Fed. Bureau of Investigation (Sept. 11, 2023) [hereinafter Holley Interview]; Transcribed Interview of Thomas Sobocinski, Special Agent in Charge, Fed. Bureau of Investigation (Sept. 7, 2023) [hereinafter Sobocinski Interview].

⁶ See Transcribed Interview of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv. (May 26, 2023) [hereinafter Shapley Interview]; Transcribed Interview of Joseph Ziegler, Special Agent, Internal Revenue Serv. (June 1, 2023) [hereinafter Ziegler Interview].

⁷ See, e.g., Shapley Interview at 14, 17–18, 21, 27; Holley Interview at 36; Goldberg Interview at 26, 29.

⁸ Shapley Interview at 21, 115; Ziegler Interview at 28.

⁹ Shapley Interview at 18, 120.

¹⁰ See Shapley Interview at 119 (“We referred to Hunter Biden's father . . . 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.”).

- Ordering investigators to remove from a search warrant any reference to “Political Figure 1,”¹¹ that is, President Biden;¹²
 - Prohibiting investigators from following up on evidence of criminal campaign finance violations;¹³ and
 - Forbidding investigators from interviewing Hunter Biden’s adult children.¹⁴
- According to witness testimony, you obstructed the U.S. Attorney’s Office for the Western District of Pennsylvania from briefing the U.S. Attorney’s Office for the District of Delaware about information from a highly credible confidential human source regarding bribes allegedly paid to President Biden and Hunter Biden.¹⁵ The former U.S. Attorney for the Western District of Pennsylvania testified that you served as the “primary interface” for your office to receive information about the Biden family bribery allegations.¹⁶ He explained that the information sharing between the two offices became 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.”¹⁷ You also attended a briefing in October 2020 about the bribery allegations after Principal Associate Deputy Attorney General Richard Donoghue ordered your office to receive the briefing.¹⁸

These facts, as well as others, are laid out in more detail in the September 27, 2023 impeachment inquiry memorandum.¹⁹ Given your central role in the Department’s investigation of Hunter Biden, you are uniquely situated to advance not only the Committee’s oversight and inform potential legislative reforms, as discussed further below, but also the Committee’s impeachment inquiry.

¹¹ H. Comm. on Ways and Means, 118th Cong., Committee Report: Report on Materials Presented to the Committee on Ways and Means under 26 U.S.C. § 6103, tab 22 (Sept. 27, 2023).

¹² *Id.* at tab 24 (Sept. 27, 2023) (Identifying President Biden as Political Figure 1); *Id.* at tab A2 (Sept. 27, 2023) (“Prior to [Wolf’s] email, FBI had provided a draft of an email search warrant related to the FARA investigation relating to Burisma. I have included the page of the draft of the search warrant which identified Political Figure 1 as Former Vice President Joseph Biden. AUSA Lesley Wolf was asking to remove him from this document.”).

¹³ *Id.* at tab 97 (Sept. 27, 2023) (According to Shapley’s notes, FBI SSA Gordon brought up the campaign finance case and “Leslie said she is not ‘personally’ interested in pursuing it.”).

¹⁴ Transcribed Interview of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv., at 22 (May 26, 2023); Transcribed Interview of Joseph Ziegler, Special Agent, Internal Revenue Serv., at 32, 52 (June 1, 2023).

¹⁵ Supplemental Statement of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv., at 2 (Sept. 20, 2023).

¹⁶ Transcribed Interview of Scott Brady, Former U.S. Att’y, W. Dist. of Penn., at 23–24 (Oct. 23, 2023).

¹⁷ *Id.* at 29–30.

¹⁸ *Id.* at 28, 30–31; Memorandum of Conversation of October 22, 2020, by Gary Shapley, Supervisory Special Agent, Internal Revenue Serv. (Oct. 22, 2020).

¹⁹ Memorandum from Chairmen Jim Jordan, James Comer, and Jason Smith to Members of the H. Judiciary Comm., H. Comm. on Oversight & Accountability, H. Comm. Ways & Means at 21 (Sept. 27, 2023) [hereinafter Impeachment Inquiry Memo].

The Committee has sought repeatedly 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.²⁰ Although the Department has allowed other employees involved in the Hunter Biden investigation to testify, albeit with substantial scoping limitations, the Department has not agreed to make you available voluntarily.

The Department's reasons for not allowing you to provide testimony are unpersuasive. Without specifically referencing you, the Department has generally claimed in correspondence that its longstanding policy is to not make non-Senate-confirmed and line-level Justice Department employees available for interviews.²¹ As we have repeatedly informed the Department, this claim is factually, legally, and historically inaccurate.²² Congressional committees have regularly received testimony from non-Senate-confirmed and line-level Justice Department employees.²³ The nonpartisan Congressional Research Service, after examining 90 years of precedent, concluded that "investigating committees [have] often obtained the testimony of subordinate DOJ employees, such as line attorneys and FBI field agents, both formally and informally, on specific matters of DOJ's operations."²⁴ Indeed, the Committee has conducted interviews with line-level and other non-Senate-confirmed Department employees in our oversight of the Justice Department's investigation into the Biden family for which we seek your testimony.²⁵

²⁰ See, e.g., 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); 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); Email from Committee Staff, H. Comm. on the Judiciary, to Office of Leg. Affairs, U.S. Dep't of Justice (Nov. 14, 2023).

²¹ 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 (Oct. 25, 2023); 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); 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); 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). In informal communications with Committee staff, the Department has clarified that its generalized concern about the testimony of line-level employees applies to your testimony as well.

²² 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 21, 2023); 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). See also Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Christopher Wray, Dir., Fed. Bureau of Investigation (Mar. 3, 2023). See generally *Barenblatt v. United States*, 360 U.S. 109, 111 (1959); *Watkins v. United States*, 354 U.S. 178, 187 (1957); *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927).

²³ See, e.g., Transcribed Interview of Deputy Chief, Counterintelligence and Export Control Section, U.S. Dep't of Just. (Sept. 18, 2020); Transcribed Interview of Bruce Ohr, U.S. Dep't of Just. (June 30, 2020); Transcribed Interview of Stuart Evans, U.S. Dep't of Just. (July 31, 2020); Transcribed Interview of Michael B. Steinbach, U.S. Dep't of Just. (June 16, 2020); Transcribed Interview Maame Frimpong, U.S. Dep't of Just. (July 19, 2016); Transcribed Interview of Richard Pilger, U.S. Dep't of Just. (May 6, 2014); Transcribed Interview of Jack Smith, U.S. Dep't of Just. (May 29, 2014); Transcribed Interview of Gary Grindler, U.S. Dep't of Just. (Dec. 14, 2011).

²⁴ ALISSA M. DOLAN & TODD GARVEY, CONG. RSCH. SERV., R42811, CONGRESSIONAL INVESTIGATIONS OF THE DEPARTMENT OF JUSTICE, 1920-2012: HISTORY, LAW, AND PRACTICE, at 15 n.87 (2012).

²⁵ See, e.g., Goldberg Interview; Holley Interview; Sobocinski Interview; cf. MORTON ROSENBERG, WHEN CONGRESS COMES CALLING: A STUDY ON THE PRINCIPLES, PRACTICES, AND PRAGMATICS OF LEGISLATIVE INQUIRY, CONST. PROJECT, at 76-77 (2017) [hereinafter WHEN CONGRESS COMES CALLING] (noting that over the past

Further, the Committee rejects the Department’s amorphous assertion that an “ongoing investigation” prohibits Congress from exercising its Constitutional oversight obligations. As the Department well knows, there is no “ongoing investigation” privilege codified in statute or recognized by the courts. The Department’s claim “rests on no constitutional privilege or case law authority” but rather solely on opinions issued unilaterally by the Justice Department.²⁶ 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.²⁷ The historical record is replete with examples of the Department providing information related to ongoing criminal investigations to congressional committees,²⁸ including the exact type of information the Committee is looking for in this investigation.²⁹ The suggestion that the Department may somehow dictate the nature of the Committee’s oversight because of the continuing nature of an ongoing law-enforcement investigation lacks any valid legal basis, and the Committee does not accept it as a legitimate reason to obstruct or otherwise delay our oversight efforts.

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.”³⁰ 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.³¹ In this matter, potential

century, “[congressional] committees 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”).

²⁶ *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) [hereinafter *Hearing on Obstruction of Justice*] (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.”).

²⁷ 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”).

²⁸ See *Hearing on Obstruction of Justice* (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.”).

²⁹ 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.”).

³⁰ *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).

³¹ Rules of the U.S. House of Representatives, R. X (2023).

legislation could include, but is not limited to, strengthening laws protecting whistleblowers from retaliation, reforming the “special attorney” statute,³² codifying the special counsel regulations,³³ 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.”³⁴ Here, whistleblowers have brought forward numerous allegations 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), all backed by contemporaneous documentary and testimonial evidence. These are among the matters about which the Committee requires testimony to inform potential legislative reforms.

Finally, as part of the impeachment inquiry, the Committee is investigating whether President Biden “abuse[d] his power as President to impede, obstruct, or otherwise hinder investigations (including Congressional investigations) or the prosecution of Hunter Biden.”³⁵ Given your critical role you played in the investigation of Hunter Biden, you are uniquely situated to shed light on whether President Biden played any role in the Department’s investigation and whether he attempted, in any way, to directly or indirectly obstruct either that investigation or our investigation.

Accordingly, for all these reasons, and in light of 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

³² See 28 U.S.C. § 515.

³³ See 28 C.F.R. § 600 *et seq.*

³⁴ *Watkins v. United States*, 354 U.S. 178, 200 n.33 (1957).

³⁵ Impeachment Inquiry Memo at 29 (footnote omitted).