

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

July 27, 2023

Chairman Dick Durbin
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Durbin:

We write to request a hearing with Attorney General Garland and United States Attorney David Weiss so that they can clarify previous statements in light of recent events related to the Hunter Biden tax investigation.

Ranking Member Graham wrote to both Attorney General Garland and U.S. Attorney Weiss recently for clarification about testimony from two IRS whistleblowers who worked directly on the investigation into potential tax violations by the President's son, Hunter Biden. The testimony credibly alleges that the Biden Administration's IRS, FBI, and DOJ mishandled the Hunter Biden tax investigation, by engaging in a "delay, divulge, and deny" campaign. Ranking Member Graham also sought information about a FD-1023 that contained allegations of Biden family corruption. U.S. Attorney Weiss and his team had been briefed on this document and told that the allegations did not initially appear to be foreign disinformation.

On Monday, July 10, U.S. Attorney Weiss responded to Ranking Member Graham's letter; however, his response raised more questions than answers. Mr. Weiss reiterated he had been assured that he would be granted authority to charge in a district outside his own if that proved necessary.¹ In fact, Mr. Weiss told Ranking Member Graham that Weiss had "never been denied the authority to bring charges in any jurisdiction."² His statements do not fit at all with credible, corroborated whistleblower testimony.

Moreover, U.S. Attorney Weiss contends that the allegations in the FD-1023 "relate to an ongoing investigation."³ This raises further questions about the proposed terms of Hunter Biden's plea agreement and the scope of the ongoing investigation.

According to one whistleblower, IRS Assistant Special Agent in Charge Gary Shapley, during an October 7, 2022 meeting U.S. Attorney Weiss told investigators that he did not have authority to charge in districts outside the District of Delaware and that when he sought to bring charges in D.C. and the Central District of California, the politically-appointed U.S. Attorneys denied these

¹ Letter from David C. Weiss, U.S. Attorney for the District of Delaware, to The Hon. Lindsey Graham, Ranking Member, S. Comm. on the Judiciary (Jul. 10, 2023).

² *Id.*

³ *Id.*

requests. Additionally, Weiss told Shapley he had been denied special counsel authority to charge in outside districts.

Agent Shapley’s testimony is directly relevant to this Committee’s oversight authority and has been corroborated by other witnesses to the October 7th meeting. Baltimore FBI Special Agent in Charge Tom Sobocinski, Baltimore FBI Assistant Special Agent in Charge Ryeshia Holley, and IRS Special Agent in Charge Darrell Waldon were all witnesses to U.S. Attorney Weiss’s statements in the October 7th meeting.⁴ In fact, Agent Waldon had asked Agent Shapley to summarize the October 7th meeting in an e-mail to another member of the team. As requested, Agent Shapley sent an e-mail on the evening of October 7, 2022. In that email he stated in bold, underlined typeface that “**Weiss stated that he is not the deciding person on whether charges are filed.**”⁵ Agent Shapley also wrote in his e-mail that Weiss told the members of the meeting that (1) the U.S. Attorney for the District of D.C. (D.D.C.) said that Weiss could not charge in D.D.C., (2) Weiss requested special counsel authority, and (3) “Main DOJ denied his request.”⁶ Agent Shapley copied Agent Waldon on the e-mail and asked Agent Waldon to “comment if [Shapley] miss[ed] something.” Agent Waldon responded that Agent Shapley “covered it all,” directly corroborating Agent Shapley’s version of events.⁷

Some of Agent’s Shapley’s allegations have also been independently confirmed by The New York Times.⁸ Following Weiss’s July 10th letter to Senator Graham The New York Times noted that Weiss did not explicitly address the allegation “that Biden-appointed U.S. attorneys in California and Washington had discouraged Mr. Weiss from prosecuting Hunter Biden on felony tax charges stemming from a period when the president’s son was earning millions working with foreign-controlled businesses and investors.” In its reporting on Weiss’s July 10th letter, the Times that it has independently confirmed Shapley’s allegations relating to the Central District of California.⁹

Agent Shapley’s testimony also directly contradicts Attorney General Garland’s public statements. For example, Attorney General Garland told the Senate Judiciary Committee on March 1, 2023 that “[Weiss] had been advised he has full authority to make those referrals . . . or to bring cases in other districts if he needs to do that.”¹⁰ Additionally, in a June 2023 press conference responding to Agent Shapley’s allegations, Attorney General Garland claimed that

⁴ Statement by Mark D. Lytle of Nixon Peabody LLP, Attorney for Gary Shapley (Jun. 23, 2023), https://twitter.com/EMPOWR_us/status/1672311676438282240/photo/1.

⁵ Ex. 10, Interview of Gary A. Shapley, Jr. Tr., Committee on Ways and Means, U.S. House of Representatives (May 26, 2023).

⁶ *Id.*

⁷ *Id.*

⁸ Glenn Thrush and Michael S. Schmidt, *Competing Accounts of Justice Dept.’s Handling of Hunter Biden Case*, NY TIMES (Jun. 27, 2023), <https://www.nytimes.com/2023/06/27/us/politics/irs-official-justice-dept-hunter-biden.html>.

⁹ Glenn Thrush, *Prosecutor Rebuts I.R.S. Official’s Account of Request in Hunter Biden Case*, THE NEW YORK TIMES (Jul. 10, 2023), <https://www.nytimes.com/2023/07/10/us/politics/david-weiss-hunter-biden-irs.html>.

¹⁰ *Justice Department Oversight Hearing Before S. Comm. on the Judiciary*, 118th Cong., C-SPAN, 00:46:48 (Mar. 1, 2023) (statement of Hon. Merrick Garland, Attorney Gen. of the U.S.)

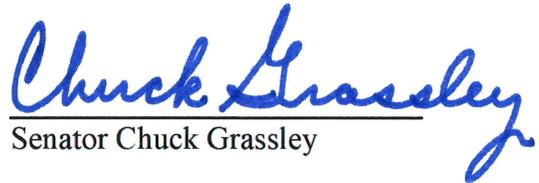
“[Weiss was told he] would be permitted to continue his investigation, and to make a decision to prosecute *any way in which he wanted to and in any district in which he wanted to* ... he **has** this authority. I don’t know how it would be possible for anyone to block him from bringing a prosecution **given that he has this authority.**”¹¹

In light of the foregoing discrepancies, both Attorney General Garland and U.S. Attorney Weiss must come before our Committee to clarify their statements regarding Mr. Weiss’s authority to charge in districts outside the District of Delaware. They must also explain what happened to the allegations that were provided to them in the FD-1023.

The seriousness of these developments cannot be overstated. The American people deserve the truth, and we have a responsibility to exercise our oversight authority to uncover the truth. As you stated in a similar context, “[t]he American people must have full transparency to draw their own conclusions.”¹² For the sake of ensuring transparency in the DOJ, we request that you promptly schedule a hearing with Attorney General Garland and U.S. Attorney Weiss.

Sincerely,


Ranking Member Lindsey Graham


Senator Chuck Grassley


Senator John Cornyn


Senator Mike Lee


Senator Ted Cruz


Senator Josh Hawley


Senator Tom Cotton


Senator John Kennedy

¹¹ AG Garland Maintains David Weiss Had Full Authority Over Hunter Biden Case, C-SPAN, 00:00:55 (Jun. 23, 2023) (emphasis added).

¹² Press Release, Senator Dick Durbin, Durbin Statement on Special Counsel Mueller’s Report to Congress (Apr. 18, 2019).



Senator Thom Tillis



Senator Marsha Blackburn