

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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March 7, 2023

Mr. Jeff Zients  
White House Chief of Staff  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. Zients,

The Committee on Oversight and Accountability continues to investigate President Biden's mishandling of highly classified documents. The Committee has previously written the White House regarding this matter on January 10, 2023; January 13, 2023; and January 15, 2023. However, the White House has produced no documents and neglected to provide a substantive response to the Committee's requests. Meanwhile, reports indicate the Federal Bureau of Investigation continues its search for more classified documents, most recently at the University of Delaware.<sup>1</sup> The Committee is concerned about President Biden's lack of transparency given the serious national security implications of his conduct.

On January 31, 2023, the Committee conducted a transcribed interview with National Archives and Records Administration's (NARA) general counsel, Gary Stern. The interview revealed information regarding President Biden's mishandling of classified documents and NARA's response. During questioning by Committee counsel, Mr. Stern acknowledged that on January 9, 2023, when CBS broke the news that President Biden stored classified materials at Penn Biden Center,<sup>2</sup> NARA drafted a public statement in response. Mr. Stern disclosed to the Committee that someone outside of NARA withheld its release. In complete contrast, on February 7, 2022, when the *Washington Post* broke the story that classified documents were found in President Trump's Mar-a-Lago home, NARA employees, including Gary Stern, drafted and *published* a statement on the agency's website that same day.<sup>3</sup> Mr. Stern stated:

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<sup>1</sup> Paula Reid, *First on CNN: FBI searched University of Delaware for Biden documents, source says*, CNN (Feb. 15, 2023).

<sup>2</sup> Adriana Diaz, Amdres Triay, Arden Farhi, *U.S. attorney reviewing documents marked classified from Joe Biden's vice presidency found at Biden think tank*, CBS Evening News (updated Jan 10, 2023).

<sup>3</sup> Jacqueline Alemany, Josh Dawsey, Tom Hamburger, and Ashley Parker, *National Archives had to retrieve Trump White House records from Mar-a-Lago*, WASH. POST (Feb. 7, 2022).

Q. On January 9th of 2023, CBS broke the story that President Biden stored documents at Penn Biden Center that were subject to the Presidential Records Act and also contained classified material.

Did you draft a statement in response to that CBS report?

A. NARA did draft a statement.

Q. Did it go public?

A. No.

Q. Who prevented that statement from going public?

A. According to the DOJ guidance, I'm not supposed to talk about the, you know, content of our communications with other parties.

Q. So I just want to be clear. You published, being National Archives, a statement regarding President Trump's alleged possession of these materials at Mar-a-Lago the same day that the Washington Post story breaks, correct? Is that right?

A. We did, yes.

Q. You drafted it. You developed it.

A. I helped draft it, yes.

Q. But then, on January 9th of 2023, when the story breaks with CBS that President Biden has materials that are classified and subject to the Presidential Records Act, the National Archives actually drafted a press statement that has never made it to light?

A. Yes.

Congressman Jim Jordan asked Mr. Stern whether someone within NARA instructed that the statement not be released publicly. Mr. Stern asserted it was not a person at NARA who was responsible for blocking the statement:

Mr. Jordan. So I'm not talking about communications outside NARA. I'm talking about inside NARA. Did someone tell you not to put it out within the National Archives.

Mr. Stern. No.

In addition, Mr. Stern confirmed with Committee counsel that President Biden can publicly release his communications between his attorneys and NARA. Indeed, the Committee learned that President Biden is “free to release” all of his representatives’ communications and be completely transparent with the American people, if he chooses. Mr. Stern stated:

Q. Couldn’t President Biden just release the emails from his attorneys and his representatives who contacted National Archives, himself, so that it would be public for everyone to view?

A. Yeah, I can’t speak for other parties. I mean, again, you’ve asked for our communications, you know, including internal communications and with all those parties, which are still under review. And, I mean, it is quite possible that I will be able to provide you that information; I’m just not able to do that right at this moment.

Q. But there’s nothing preventing the President of the United States from releasing the emails from his representatives and his attorneys to the National Archives for the public to view. In other words, the National Archives isn’t preventing President Biden from releasing those documents, correct?

A. That is correct. And that’s the same with President Trump and his representatives. They are free to release, you know, the communications they receive from us. We treat them as – we treat them as confidential, but the recipients, you know, can act independently if they want to.

The Committee’s transcribed interview with NARA General Counsel Gary Stern raises more questions regarding the Biden Administration’s involvement in suppressing information related to President Biden’s mishandling of classified documents. The Committee reiterates its previous requests to the White House for documents and information outlined in our January 10, 2023, January 13, 2023, and January 15, 2023, letters. Further, please provide the following answers, documents, and communications no later than March 21, 2023:

- 1) Did any White House staff member or representative of President Biden inform any employee of NARA to withhold any public statements regarding President Biden’s mishandling of classified documents? If so, who?

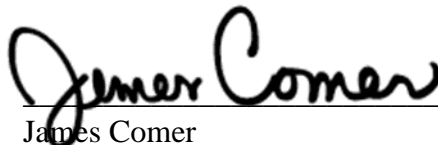
- 2) All documents and communications regarding the withholding of NARA's statement it intended to issue on January 9, 2023, related to President Biden's mishandling and storage of classified documents at Penn Biden Center; and
- 3) Mr. Stern stated President Biden is "free to release" his emails between his attorneys/representatives and NARA. Will President Biden release his attorneys' and representatives' communications with NARA for the public to view?<sup>4</sup>

The Committee has provided instructions regarding how these materials should be produced and defined certain terms in the accompanying attachment.<sup>5</sup> To make arrangements to deliver documents or ask any related follow-up questions, please contact Committee on Oversight and Accountability staff at (202) 225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Thank you for your prompt attention to this important investigation.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style and is positioned above a horizontal line.

James Comer  
Chairman  
Committee on Oversight and Accountability

cc: The Honorable Jamie B. Raskin, Ranking Member  
Committee on Oversight and Accountability

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<sup>4</sup> NARA has made only one production of materials related to this matter that cover communications between President Biden's personal attorneys and NARA from November 7, 2022 to November 10, 2022. *See* <https://www.archives.gov/foia/biden-vp-records-covered-by-pra>.

<sup>5</sup> *See* Attachment A.