

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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September 5, 2023

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas,

Attached to this letter are subpoenas that require the Department of Homeland Security (DHS) to produce certain documents to the House Committee on Oversight and Accountability (Oversight Committee) and three DHS employees to appear for depositions with the Oversight Committee. Since June, the Oversight Committee, along with the Committees on the Judiciary and Ways and Means have sought information regarding testimony provided to Congress by Internal Revenue Service (IRS) whistleblowers. That testimony contained credible allegations regarding the improper handling of the criminal investigation of Hunter Biden, the son of President Joe Biden. In June, the Committees wrote to U.S. Secret Service (Secret Service) Director Kimberly Cheatle requesting interviews of relevant Secret Service employees.¹ Throughout July and August, the Secret Service has provided uncharacteristic delay and opacity responding to this request. In particular, the Oversight Committee has learned the DHS Office of Legislative Affairs (DHS OLA) instructed the Secret Service to withhold a response the Secret Service had prepared for the Committees. DHS OLA's decision to instruct the Secret Service not to provide this response appears to constitute obstruction of a Congressional investigation, and the attached subpoenas require the immediate and full cooperation of DHS.

In May and June 2023, IRS whistleblowers provided testimony to the Committee on Ways and Means regarding what they identified to be severe and repeated mishandlings by the Federal Bureau of Investigation (FBI) and others regarding the Hunter Biden criminal investigation that began in 2018.² One whistleblower explained that FBI and IRS investigators sought to interview Hunter Biden on December 8, 2020, without giving him notice that the interview would occur. However, on December 7, 2020—the night before the interview—the IRS whistleblower “was informed that FBI headquarters had notified Secret Service headquarters

¹ Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, Hon. Jason Smith, Chairman, H. Comm. on Ways & Means, and Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Ms. Kimberly Cheatle, Director, U.S. Secret Service (June 29, 2023).

² See Transcribed interview of Gary Shapley, Internal Revenue Service (May 26, 2023) (“Shapley Transcript”).

and the transition team about the planned actions the following day...essentially tipp[ing] off a group of people very close to President Biden and Hunter Biden and gave this group an opportunity to obstruct the approach on the witnesses.”³ This account was confirmed to the Oversight Committee during a transcribed interview with a former FBI Supervisory Special Agent who accompanied the IRS whistleblower during the attempt to interview Hunter Biden.⁴ Following these actions by FBI and the Secret Service, the interview of Hunter Biden did not occur. This is only one example of a systemic problem throughout the investigation that allowed Hunter Biden to avoid accountability and answering difficult questions about the source of his income, the legality of his actions, and the people who worked with and benefitted from his worldwide efforts to peddle access to his father.

On June 29, 2023, three Congressional Committees wrote to the Secret Service requesting Director Kimberly Cheatle “make all Secret Service employees who received the December 7, 2020 tip-off from FBI and all Secret Service employees who may have passed this information along to the Biden family or presidential transition team available for transcribed interviews before the [Oversight Committee] promptly.”⁵ The Committees requested that scheduling of the transcribed interviews begin no later than July 13. On July 7, Oversight Committee counsel spoke with Secret Service staff to stress the importance of the three Committees’ request and the value of the interviews to the Committees’ ongoing investigations. This message was reiterated on July 11 by Oversight Committee counsel to Secret Service staff. On those phone calls, Secret Service staff assured Oversight Committee staff that the Secret Service was diligently seeking to identify people responsive to the Committees’ request. On July 13, the Secret Service provided a letter to the Chairmen of the Committees that did not identify any Secret Service employees but stated that the Secret Service “take[s] your inquiry very seriously and need[s] some time to ensure that we are able to address it fully.”⁶

On August 9, Oversight Committee counsel requested a call regarding the status of the response to the Committees’ original request.⁷ A call was scheduled for the next day, August 10 at 11:30 A.M.⁸ On August 10, Secret Service staff informed Oversight Committee counsel that the Secret Service could not take the call and “every attempt [would be made] to reschedule for the next two weeks.”⁹ Oversight Counsel raised objections to the call being delayed by as much

³ Shapley transcript, p. 19.

⁴ See Transcribed interview with former FBI Supervisory Special Agent (July 17, 2023), pp. 30-35.

⁵ *Supra*, fn. 1.

⁶ Letter from Mr. Vincent Tutoni, Assistant Director, Office of Intergovernmental and Legislative Affairs, U.S. Secret Service, to Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, Hon. Jason Smith, Chairman, H. Comm. on Ways & Means, and Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 13, 2023).

⁷ E-mail from Oversight Committee counsel to Secret Service staff (Aug. 9, 2023, 12:16 P.M.).

⁸ E-mail from Secret Service staff to Oversight Committee counsel (Aug. 9, 2023, 5:48 P.M.).

⁹ E-mail from Secret Service staff to Oversight Committee counsel (Aug. 10, 2023, 10:37 A.M.).

as two weeks.¹⁰ The call did not occur; the Secret Service instead responded hours past the agreed-upon time for the call with an e-mail stating, “Please be assured a formal response will be provided to your office by next week.”¹¹ Two weeks after that e-mail—on Thursday, August 24—Oversight Committee counsel e-mailed the Secret Service, as no response had arrived.¹² The next day—on Friday, August 25—the Secret Service responded, “Please note that our response was prepared in accordance with the indicated timeframe, however, we have been awaiting final approval. The Committees will receive a formal written response by close of business today.”¹³

An adequate response to the Committees’ June 29 letter did not arrive by the close of business on August 25. Instead, Secret Service staff requested that Oversight Committee counsel call them.¹⁴ During that call, the Secret Service explained that a responsive document to the Committees’ June 29 letter was prepared, but DHS OLA had instructed the Secret Service not to transmit the response. Then, several hours later, Secret Service provided a letter to the Oversight Committee that did *not* identify individuals responsive to the June 29 letter.¹⁵ The response letter rather stated that in the course of the Secret Service’s review, “the Secret Service was not able to identify any current employees with first-hand knowledge” of events described in the Committees’ June 29 letter.¹⁶ In addition to Secret Service employees copied on the e-mail transmitting this letter were Shiek Pal, DHS Director of Oversight, and Stephen Jonas, DHS Senior Advisor to the General Counsel.¹⁷

The August 25 letter also stated, “[t]he Secret Service is available to provide your staff with additional information at your convenience.”¹⁸ On Monday, August 28, Committee counsel requested a call from the Secret Service;¹⁹ the Committee sought an explanation for how the August 25 letter should be read in conjunction with the August 25 call with Secret Service, during which Secret Service explained a more fulsome response had been prepared but DHS OLA had prevented it from being transmitted. A call was agreed to occur at 3:30 P.M. that day.²⁰ However, shortly thereafter, Secret Service staff called Oversight Committee counsel and

¹⁰ E-mail from Oversight Committee counsel to Secret Service staff (Aug. 10, 2023, 11:01 A.M.).

¹¹ E-mail from Secret Service staff to Oversight Committee counsel (Aug. 10, 2023, 4:56 P.M.) (emphasis added).

¹² E-mail from Oversight Committee counsel to Secret Service staff (Aug. 24, 2023, 10:31 A.M.).

¹³ E-mail from Secret Service staff to Oversight Committee counsel (Aug. 25, 2023, 9:22 A.M.) (emphasis added).

¹⁴ E-mail from Secret Service staff to Oversight Committee counsel (Aug. 25, 2023, 11:23 A.M.).

¹⁵ Letter from Mr. Vincent Tutoni, Assistant Director, Office of Intergovernmental and Legislative Affairs, U.S. Secret Service, to Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, Hon. Jason Smith, Chairman, H. Comm. on Ways & Means, and Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 25, 2023).

¹⁶ *Id.* (emphasis added).

¹⁷ E-mail from Secret Service staff to Oversight Committee counsel (Aug. 25, 2023, 3:05 P.M.).

¹⁸ *Supra*, fn. 15.

¹⁹ E-mail from Oversight Committee counsel to Secret Service staff (Aug. 28, 2023, 11:27 A.M.).

²⁰ E-mail from Secret Service staff to Oversight Committee staff (Aug. 28, 2023, 12:38 P.M.).

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requested the call be pushed to the next day, August 29. Oversight Committee counsel requested an update by the end of the day. At 4:58 P.M. of August 28, Secret Service staff spoke with Oversight Committee counsel. During that call, Secret Service staff said the August 25 letter from the Secret Service was not the original response the Secret Service had prepared and reiterated that it was DHS OLA that had told the Secret Service not to provide the original response. Additionally, Secret Service staff stated that Secret Service would meet with DHS OLA the next day—Tuesday, August 29—to speak about providing the original response to the Committees and, if DHS OLA did not allow the Secret Service to provide that response, the Secret Service would notify the Oversight Committee of that. However, despite a voicemail left by Oversight Committee staff on August 29, the Secret Service did not provide a call or any communication to the Oversight Committee to provide any further information on that day or thereafter.

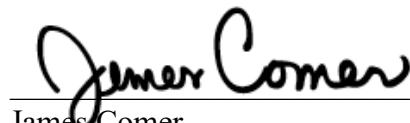
The Oversight Committee requires additional information about the efforts of DHS OLA to block a response from the Secret Service to three Congressional Committees' request for information. Specifically, the Oversight Committee requires the documents and communications set forth in the schedule to the attached subpoena as well as testimony from K. Shiek Pal, Director of Oversight; Stephen Jonas, Senior Advisor to the General Counsel; and Zephranie Buetow, Assistant Secretary for Legislative Affairs. Mr. Pal and Mr. Jonas were copied on emails from the Secret Service to the Committee, and Ms. Buetow leads DHS's response to Congressional inquiries.

The Committees are continuing to conduct oversight of the programs and operations of the Department of Justice, Internal Revenue Service, and the Secret Service within their respective jurisdictions. DHS OLA's instruction to the Secret Service to not provide information to Congressional investigations impedes this oversight.

As Chairman of the Oversight Committee, I urge DHS to cooperate speedily and in good faith with the Oversight Committee's subpoenas.

If you have any questions regarding the subpoena, please contact James Mandolfo or Jake Greenberg with Oversight Committee staff at (202) 225-5074.

Sincerely,



James Comer

Chairman

Committee on Oversight and Accountability

The Honorable Alejandro Mayorkas

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