

RESOLUTION RECOMMENDING THAT THE HOUSE OF REPRESENTATIVES FIND  
ROBERT HUNTER BIDEN IN CONTEMPT OF CONGRESS FOR REFUSAL TO COMPLY  
WITH A SUBPOENA DULY ISSUED BY THE COMMITTEE ON OVERSIGHT AND  
ACCOUNTABILITY

January \_\_, 2024. Referred to the House Calendar and ordered to be printed

MR. COMER, from the Committee on Oversight and Accountability, submitted the following

**R E P O R T**

**together with**

**\_\_\_\_\_ VIEWS**

The Committee on Oversight and Accountability, having considered this Report, reports favorably thereon and recommends that the Report be approved.

The form of the Resolution that the Committee on Oversight and Accountability would recommend to the House of Representatives citing Robert Hunter Biden for contempt of Congress pursuant to this Report is as follows:

*Resolved*, That Robert Hunter Biden shall be found to be in contempt of Congress for failure to comply with a congressional subpoena.

*Resolved*, That pursuant to 2 U.S.C. §§ 192 and 194, the Speaker of the House of Representatives shall certify the report of the Committee on Oversight and Accountability, detailing the refusal of Robert Hunter Biden to appear for a deposition before the Committee on Oversight and Accountability as directed by subpoena, to an appropriate United States attorney, to the end that Mr. Biden be proceeded against in the manner and form provided by law.

*Resolved*, That the Speaker of the House shall otherwise take all appropriate action to enforce the subpoena.

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## EXECUTIVE SUMMARY

On December 13, 2023, Robert Hunter Biden failed to comply with deposition subpoenas issued by the Committees on Oversight and Accountability and the Judiciary for testimony relevant to the House of Representatives’ impeachment inquiry and the Committees’ oversight investigations.<sup>1</sup> Instead, Mr. Biden opted to read a short, prepared statement in front of the Capitol. Accordingly, Mr. Biden has violated federal law,<sup>2</sup> and must be held in contempt of Congress. Mr. Biden’s testimony is a critical component of the impeachment inquiry into, among other things, whether Joseph R. Biden, Jr., as Vice President and/or President: (1) took any official action or effected any change in government policy because of money or other things of value provided to himself or his family; (2) abused his office of public trust by providing foreign interests with access to him and his office in exchange for payments to his family or him; or (3) abused his office of public trust by knowingly participating in a scheme to enrich himself or his family by giving foreign interests the impression that they would receive access to him and his office in exchange for payments to his family or him.<sup>3</sup>

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<sup>1</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, and Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Abbe D. Lowell, Partner, Winston & Strawn LLP (Nov. 8, 2023) [hereinafter “Nov. 8 Letter”].

<sup>2</sup> See 2 U.S.C. § 192 (“Every person who having been summoned as a witness by the authority of either House of Congress to give testimony . . . upon any matter under inquiry before either House . . . or any committee of either House of Congress, willfully makes default . . . shall be deemed guilty of a misdemeanor . . .”).

<sup>3</sup> Nov. 8 Letter, *supra* note 1.

The testimony sought by the subpoenas is also relevant to ongoing efforts to craft legislative reforms to federal ethics and financial disclosure laws. The Committees seek to craft legislative solutions that provide transparency when the President’s or Vice President’s family members engage in lucrative financial transactions. As part of our investigation, the Committees seek to craft legislative solutions aimed at deficiencies we have identified in the current legal framework regarding ethics laws and the disclosure of financial interests related to the immediate family members of Vice Presidents and Presidents—deficiencies that may place American national security and interests at risk. Specifically, the Committees are concerned that foreign nationals appear to have sought access and influence by engaging in lucrative business relationships with high-profile political figures’ immediate family members.

Mr. Biden’s flagrant defiance of the Committees’ deposition subpoenas—while choosing to appear nearby on the Capitol grounds to read a prepared statement on the same matters—is contemptuous, and he must be held accountable for his unlawful actions. Accordingly, the Chairman of the Committee on Oversight and Accountability recommends that Congress find Robert Hunter Biden in contempt for his failure to comply with the Committee subpoena issued to him.

## AUTHORITY AND PURPOSE

The Constitution vests the House of Representatives with the “sole Power of Impeachment”<sup>4</sup> and provides that the “President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.”<sup>5</sup> As the U.S. Court of Appeals for the District of Columbia Circuit has stated, “[t]o level the grave accusation that a President may have committed ‘Treason, Bribery, or other high Crimes and Misdemeanors,’ U.S. Const. art. II, § 4, the House must be appropriately informed.”<sup>6</sup> Congress’s authority to access information during an impeachment investigation can be broader in certain instances than in a purely legislative investigation,<sup>7</sup> a fact that the Executive Branch traditionally has recognized.<sup>8</sup> An impeachment inquiry is the traditional means by which the House assembles and evaluates relevant

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<sup>4</sup> U.S. CONST. art. I, § 2, cl. 5.

<sup>5</sup> *Id.* art. II, § 4.

<sup>6</sup> *Comm. on Judiciary of U.S. House of Representatives v. McGahn*, 968 F.3d 755, 765 (D.C. Cir. 2020) (en banc).

<sup>7</sup> TODD GARVEY, CONG. RSCH. SERV.: LEGAL SIDEBAR, LSB11083, IMPEACHMENT INVESTIGATIONS, PART II: ACCESS, at 1 (2023) (“[T]here is reason to believe that invocation of the impeachment power could improve the committees’ legal claims of access to certain types of evidence relevant to the allegations of misconduct against President Biden.”). See also *In re Application of Comm. on Judiciary*, 414 F. Supp. 3d 129, 176 (D. D.C. 2019) (“[D]enying [the House Judiciary Committee] evidence relevant to an impeachment inquiry could pose constitutional problems.”), *aff’d*, 951 F.3d 589 (D.C. Cir. 2020), *vacated and remanded sub nom. on other grounds, DOJ v. House Comm. on the Judiciary*, 142 S. Ct. 46 (2021); *In re Request for Access to Grand Jury Materials*, 833 F.2d 1438, 1445 (11th Cir. 1987) (concluding that “limit[ing] the investigatory power of the House in impeachment proceedings . . . would clearly violate separation of powers principles”).

<sup>8</sup> See GARVEY, *supra* note 7 (“As a historical matter, all three branches have suggested that the House possesses a robust right of access to information when it is investigating for impeachment purposes.”); Jonathan David Schaub, *The Executive’s Privilege*, 70 DUKE L.J. 1, 87 (2020) (“[P]residents and others have recognized throughout the history of the country that their ability to withhold information from Congress disappears in the context of impeachment.”).

information.<sup>9</sup> Indeed, conducting an impeachment inquiry without all pertinent evidence would be an affront to the Constitution and irreparably damage public faith in the impeachment process.<sup>10</sup>

On September 27, 2023, pursuant to the directive of the Speaker, the Chairs of the Committees, along with the Chair of the Committee on Ways and Means, released a memorandum setting forth the justification for and scope of the inquiry into whether sufficient grounds exist to draft articles of impeachment against President Biden.<sup>11</sup> On December 13, 2023, the House of Representatives adopted House Resolution 918, directing the Committees, along with the Committee on Ways and Means, to continue the ongoing impeachment inquiry.<sup>12</sup> By approving House Resolution 918, the House also adopted House Resolution 917,<sup>13</sup> which affirmed that “[t]he authority provided by clause 2(m) of Rule XI of the Rules of the House of Representatives to the Chairs of the Committees . . . included, from the beginning of the existing House of Representatives impeachment inquiry . . . the authority to issue subpoenas on behalf of such Committees for the purpose of furthering the impeachment inquiry.”<sup>14</sup> House Resolution 917 also “ratifie[d] and affirm[ed] any subpoenas previously issued . . . by the Chairs of the Committees on Oversight and Accountability, Ways and Means, or the Judiciary as part of the impeachment inquiry.”<sup>15</sup>

The deposition subpoenas to Mr. Biden were issued as part of the Committees’ impeachment inquiry. As will be explained in detail below, Mr. Biden’s testimony is necessary for the Committees to determine whether sufficient grounds exist for the Committees to draft articles of impeachment against President Biden.

However, the impeachment inquiry was not the only purpose underlying these deposition subpoenas; the subpoenas were also issued to Mr. Biden pursuant to the Committees’ authorities

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<sup>9</sup> See, e.g., H.R. Rep. No. 116-346, at 28 (2019) (“Here, consistent with historical practice, the House divided its impeachment inquiry into two phases, first collecting evidence and then bringing that evidence before the Judiciary Committee for its consideration of articles of impeachment.”); H.R. Rep. No. 111-427, at 7 (2010) (“[T]he impeachment inquiry was referred by the Committee on the Judiciary to a Task Force on Judicial Impeachment . . . , comprised of 12 Committee Members, to conduct the investigation.”). See also *Hearing on the Basis for the Impeachment Inquiry of President Joseph R. Biden: Before the H. Comm. on Oversight & Accountability*, 118th Cong. (Sept. 28, 2023) (statement of Jonathan Turley, Professor, The George Washington University Law School); Memorandum from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, and Rep. Jason Smith, Chairman, H. Comm. on Ways & Means, to Members of the H. Comm. on the Judiciary, H. Comm. on Oversight & Accountability, and H. Comm. on Ways & Means (Sept. 27, 2023) [hereinafter “Sept. 27 Memo”].

<sup>10</sup> See *In re Application of Comm. on Judiciary*, 414 F. Supp. 3d at 176 (“Impeachment based on anything less than all relevant evidence would compromise the public’s faith in the process.”); *In re Request for Access to Grand Jury Materials*, 833 F.2d at 1445 (“Public confidence in a procedure as political and public as impeachment is an important consideration justifying disclosure.”); *In re Report and Recommendation of June 5, 1972 Grand Jury*, 370 F. Supp. 1219, 1230 (D. D.C. 1974) (“It would be difficult to conceive of a more compelling need than that of this country for an unswervingly fair [impeachment] inquiry based on all the pertinent information.”).

<sup>11</sup> Sept. 27 Memo, *supra* note 9.

<sup>12</sup> H.R. Res. 918, 118th Cong. (2023).

<sup>13</sup> *Id.*

<sup>14</sup> H.R. Res. 917, 118th Cong. (2023).

<sup>15</sup> *Id.*

to conduct legislative oversight.<sup>16</sup> Article I of the Constitution vests in Congress a “broad and indispensable” power to conduct oversight and investigations that “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>17</sup> Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary is authorized to conduct oversight of the Department of Justice (DOJ) and criminal justice matters in the United States to inform potential legislative reforms,<sup>18</sup> while the Committee on Oversight and Accountability has been delegated broad authority to investigate “any matter” at “any time.”<sup>19</sup>

To further the Committees’ constitutionally mandated oversight and legislative duties, full compliance with the Committees’ duly authorized subpoenas must be obtained, which includes unrestricted testimony on all relevant matters. The information that the Committees seek from Mr. Biden relates to, among other matters, his knowledge of President Biden’s involvement in his family’s business dealings, and whether President Biden, as President and/or Vice President, took any official action or effected any change in government policy to enrich or improperly benefit himself or his family, or traded access or the appearance of access to himself and his office in exchange for payments to himself or his family. This information is necessary to inform the need for and shape of potential legislative reforms, including criminal law reforms, to address influence-peddling by Presidential and Vice-Presidential family members.

## **BACKGROUND ON THE INVESTIGATION**

In February 2023, the Committee on Oversight and Accountability launched an oversight investigation into the Biden family’s foreign business dealings by issuing subpoenas for bank records related to companies and individuals who conducted business with certain Biden family members and their related companies.<sup>20</sup> Through those records, the Committee uncovered evidence that Biden family members and their associates received over \$24 million from foreign companies and foreign nationals, with more than \$15 million received by the Biden family and \$9 million by business associates during the five-year period from 2014 to 2019.<sup>21</sup> The Oversight

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<sup>16</sup> See Rules of the U.S. House of Representatives, R. XI, cl. 2(m)(1) (2023) (providing that “a committee or subcommittee is authorized . . . (B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary”); Rules of the H. Comm. on Oversight & Accountability, R. 12(g) (“The Chair of the Committee shall . . . [a]uthorize and issue subpoenas as provided in House Rule XI, clause 2(m), in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the Committee.”); Rules of the H. Comm. on the Judiciary, R. IV(a) (“A subpoena may be authorized and issued by the Chair, in accordance with clause 2(m) of rule XI of the House of Representatives, in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the Committee, following consultation with the Ranking Minority Member.”).

<sup>17</sup> *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031 (2020)

<sup>18</sup> Rules of the U.S. House of Representatives, R. X, cl. 1(l) (2023).

<sup>19</sup> *Id.*, cl. 4(c)(2).

<sup>20</sup> See, e.g., Subpoena from Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Financial Institution 1 (Feb. 27, 2023).

<sup>21</sup> See Memorandum from Maj. Comm. staff, H. Comm. on Oversight & Accountability, to Members of the H. Comm. on Oversight & Accountability, Re: New Evidence Resulting from the Oversight Committee’s Investigation into the Biden Family’s Influence Peddling and Business Schemes (Mar. 16, 2023); Memorandum from Maj. Comm. staff, H. Comm. on Oversight & Accountability, Members of the H. Comm. on Oversight & Accountability,

Committee’s subpoenas issued to various banks for Biden family members’ bank records also showed a direct benefit to President Biden through a series of complicated financial transactions.<sup>22</sup>

In the spring of 2023, two brave whistleblowers stepped forward to notify Congress of how DOJ had impeded, delayed, and obstructed the criminal investigation of the President’s son, Hunter Biden.<sup>23</sup> Following their testimony, the Committees on the Judiciary, Oversight and Accountability, and Ways and Means requested and conducted relevant interviews with officials from DOJ, the Federal Bureau of Investigation (FBI), and the Internal Revenue Service (IRS).<sup>24</sup> On September 12, 2023, the Speaker of the House directed the Committees to conduct an inquiry to determine whether sufficient grounds existed for the impeachment of President Biden.<sup>25</sup> On September 27, 2023, the Committees released a memorandum laying out, among other things, the subject matter of the impeachment inquiry, including: (1) foreign money received by the Biden family; (2) President Joe Biden’s involvement in his family’s foreign business entanglements; and (3) steps taken by the Biden Administration to slow, hamper, or otherwise impede the criminal investigation of the President’s son, Hunter Biden, which involves funds received by the Biden family from foreign sources.<sup>26</sup>

As part of this investigation, on November 8, 2023, the Committee on Oversight and Accountability issued a subpoena to Mr. Biden compelling him to appear for a deposition to begin at 9:30 a.m. on December 13.<sup>27</sup> The Committee noticed the deposition pursuant to House and Committee rules.<sup>28</sup> Willfully ignoring the Committee’s subpoena, Mr. Biden did not appear

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Re: Second Bank Records Memorandum from the Oversight Committee’s Investigation into the Biden Family’s Influence Peddling and Business Schemes (May 10, 2023) [hereinafter “May 10 Memo”]; Memorandum from Maj. Comm. staff, H. Comm. on Oversight & Accountability, Members of the H. Comm. on Oversight & Accountability, Re: Third Bank Records Memorandum from the Oversight Committee’s Investigation into the Biden Family’s Influence Peddling and Business Schemes (Aug. 9, 2023) [hereinafter “Aug. 9 Memo”].

<sup>22</sup> See Memorandum from Maj. Comm. staff, H. Comm. on Oversight & Accountability, to Members of the H. Comm. on Oversight & Accountability, Re: Fourth Bank Records Memorandum from the Oversight Committee’s Investigation into the Biden Family’s Influence Peddling and Business Schemes (Nov. 1, 2023) [hereinafter “Nov. 1 Memo”].

<sup>23</sup> See generally 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”].

<sup>24</sup> See e.g., H. COMM. ON THE JUDICIARY ET AL., 118TH CONG., THE JUSTICE DEPARTMENT’S DEVIATIONS FROM STANDARD PROCESSES IN ITS INVESTIGATION OF HUNTER BIDEN, at 1-2 (2023); Transcribed Interview of Lesley Wolf, former Assistant U.S. Att’y, Dist. of Del. (Dec. 14, 2023).

<sup>25</sup> Press Release, Rep. Kevin McCarthy, Speaker of the House, Speaker McCarthy Opens an Impeachment Inquiry (Sept. 12, 2023).

<sup>26</sup> Sept. 27 Memo, *supra* note 9.

<sup>27</sup> See Subpoena from Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Mr. Robert Hunter Biden (Nov. 8, 2023) [hereinafter “Nov. 8 Oversight Subpoena”]. Relatedly, on November 9, the Committee on the Judiciary issued a companion subpoena to Mr. Biden for testimony on December 13. Subpoena from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Robert Hunter Biden (Nov. 9, 2023) [hereinafter “Nov. 9 Judiciary Subpoena”]. Regulations issued by the Committee on Rules authorize such a joint deposition. See Regulations for the Use of Deposition Authority, 169 Cong. Rec. H115, H147, 118th Cong. (Jan. 10, 2023). See also Rules of the H. Comm. on the Judiciary, R. XI; Rules of the H. Comm. on Oversight & Accountability, R. 15(f).

<sup>28</sup> See Joint Deposition Notice, H. Comm. on Oversight & Accountability and H. Comm. on the Judiciary, Deposition of Robert Hunter Biden on December 13, 2023 (Dec. 7, 2023) [hereinafter “Biden Joint Deposition

for his deposition. Instead, Mr. Biden read a prepared statement in front of the U.S. Capitol and immediately departed.

The Oversight and Accountability Committee, with the other investigating committees, has accumulated significant evidence suggesting that President Biden knew of, participated in, and profited from foreign business interests engaged in by his son, about which the Committees intended to question Mr. Biden during his deposition.<sup>29</sup> Mr. Biden's decision to defy the Committees' subpoenas and deliver prepared remarks prevents the Committee from carrying out its Constitutional oversight function and its impeachment inquiry.<sup>30</sup> Mr. Biden's refusal to comply with the Committees' subpoenas is a criminal act. It constitutes contempt of Congress and warrants referral to the appropriate United States Attorney's Office for prosecution as prescribed by law.

***A. The Committees Seek Information from Hunter Biden Central to the Investigative Purpose of the Impeachment Inquiry of President Joe Biden and the Committees' Legislative Oversight Investigation***

Information held by and known to Mr. Biden is vital to the impeachment inquiry of President Biden and the Committees' ongoing efforts to craft legislative reforms to federal ethics and financial disclosure laws. Throughout 2023, the Committees have been investigating (1) foreign money received by the Biden family; (2) President Biden's involvement in his family's foreign business entanglements; and (3) steps taken by the Biden Administration to slow, hamper, or otherwise impede the criminal investigation of the President's son.<sup>31</sup> The Committees have collected evidence that President Biden not only knew about, but also participated in and profited from, his family's international business activities, including business conducted by his son, Mr. Biden. This evidence includes bank records, discussions with Mr. Biden's former business associates, interviews with investigators from Mr. Biden's criminal investigation, and government records from the Department of the Treasury, National Archives and Records Administration (National Archives), FBI, and IRS.<sup>32</sup> Cumulatively, the evidence obtained thus far warrants further investigation by the Committees. To do so, the Committees must take Mr. Biden's deposition. With the possible exception of President Biden, Mr. Biden is the most important witness possessing information about President Biden's involvement in his son's business dealings.

To date, the Committees have collected hundreds of pages of documents and witness testimony relevant to the impeachment inquiry that demonstrate why Mr. Biden's deposition is crucial to the Committees' investigation. During a transcribed interview with the Committee on Oversight and Accountability, Devon Archer, a long-time associate of Mr. Biden, described how President Biden was "[t]he Brand" and was used to send "signals" of power, access, and

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Notice"]; Rules of the H. Comm. on the Judiciary, R. XI; Rules of the H. Comm. on Oversight & Accountability, R. 15(b).

<sup>29</sup> Biden Joint Deposition Notice, *supra* note 28.

<sup>30</sup> See *Hunter Biden Statement on Subpoena and Investigation*, C-SPAN (Dec. 13, 2023), <https://www.c-span.org/video/?532415-1/hunter-biden-statement-subpoena-investigation>.

<sup>31</sup> See *generally* Sept. 27 Memo, *supra* note 9.

<sup>32</sup> *Id.*

influence to enrich the Biden family from foreign sources while he served as vice president.<sup>33</sup> Mr. Archer testified that Mr. Biden placed his father on speaker phone during meetings with business associates approximately “20 times.”<sup>34</sup> Importantly, Mr. Archer detailed specific instances of then-Vice President Biden’s involvement in his family’s foreign business entanglements in 2014 and 2015.<sup>35</sup>

Mr. Archer testified that then-Vice President Biden dined with foreign individuals from countries such as Russia, Ukraine, and Kazakhstan who conducted business with Mr. Biden. Specifically, in February 2014, then-Vice President Biden dined at Café Milano with oligarchs from Russia and Kazakhstan who funneled millions of dollars to Hunter Biden and his business associates.<sup>36</sup> Then-Vice President Biden dined with other foreign business associates of Mr. Biden, including Ukrainian Burisma executive Vadym Pozharsky, at Café Milano in April 2015.<sup>37</sup> At the time, Burisma was under investigation by Ukrainian Prosecutor General Viktor Shokin for corruption.<sup>38</sup> In 2015, then-Vice President Biden hosted Mr. Biden, Mr. Archer, and other business associates at the official residence of the Vice President.<sup>39</sup> According to Mr. Archer, the topic of discussion was filling the top seat at the United Nations.<sup>40</sup> The Kazakhstani government official who wanted the U.N. position attended both dinners at Café Milano with then-Vice President Biden.<sup>41</sup>

Additional documents obtained by the Committee on Oversight and Accountability demonstrate then-Vice President Biden’s involvement in business dealings with Burisma. On December 4, 2015, Eric Schwerin, a business associate of Mr. Biden, wrote to Kate Bedingfield in the Office of the Vice President providing quotes to use in response to media outreach regarding Mr. Biden’s role in Burisma.<sup>42</sup> Later that day, Ms. Bedingfield responded to Mr. Schwerin saying, “VP [Biden] signed off on this[.]”<sup>43</sup> In addition, according to Mr. Archer, following a Burisma board of directors meeting in Dubai on the evening of December 4, 2015, Hunter Biden “called D.C.” to discuss the pressure that Burisma had asked him to relieve.<sup>44</sup>

In addition, the Committee on Ways and Means obtained communications in which Mr. Biden invoked his father to influence his foreign business deals. For instance, the Committee uncovered a threatening message from Mr. Biden to a Chinese business executive related to a business deal with CEFC China Energy, a now-defunct Chinese conglomerate with close ties to the Chinese Communist Party, in which Mr. Biden wrote, “I am sitting here with my father and we would like to understand why the commitment made has not been fulfilled.”<sup>45</sup> Four days

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<sup>33</sup> Transcribed Interview of Devon Archer, at 29–30 (July 31, 2023) [hereinafter “Archer Interview”].

<sup>34</sup> *Id.* at 51.

<sup>35</sup> See *infra* notes 36–41 and accompanying text.

<sup>36</sup> Archer Interview, *supra* note 33, at 57.

<sup>37</sup> *Id.* at 65–66.

<sup>38</sup> Press Release, Rep. James Comer, Chairman, H. Comm. Oversight & Accountability, Comer Presses State Department for Information on then-Vice President Joe Biden’s Sudden Shift on Ukraine Policy (Sept. 12, 2023).

<sup>39</sup> Archer Interview, *supra* note 33, at 45–46, 57, 65–66, 78.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> E-mail from Eric Schwerin to Kate Bedingfield (Dec. 4, 2015, 10:45 AM).

<sup>43</sup> E-mail from Kate Bedingfield to Eric Schwerin (Dec. 4, 2015, 2:30 PM).

<sup>44</sup> Archer Interview, *supra* note 33, at 33–36.

<sup>45</sup> Shapley Interview, *supra* note 23, Ex. 11.

later, on August 3, 2017, Mr. Biden sent another message to a CEFC executive suggesting that now-President Biden may have been involved in his business ventures, boasting that “[t]he Biden’s [sic] are the best I know at doing exactly what the Chairman wants from this partnership[.]”<sup>46</sup> The following day, a CEFC subsidiary wired \$100,000 to a company owned by Mr. Biden.<sup>47</sup> On August 8, 2017, nine days after Mr. Biden invoked his father in a threatening message to a CEFC executive, a Chinese company affiliated with CEFC wired \$5 million to a company jointly established by Mr. Biden and another CEFC associate.<sup>48</sup> The same day, Mr. Biden transferred \$400,000 from this joint venture to his personal company.<sup>49</sup> Through a complicated series of transactions designed to make the funds difficult to trace, laid out in full by the Committee on Oversight and Accountability, now-President Biden ultimately received \$40,000 of the proceeds.<sup>50</sup>

Mr. Biden’s business associates have also indicated that now-President Biden was involved in his son’s business affairs. For instance, on May 13, 2017, James Gilliar, one of Mr. Biden’s business associates, emailed another associate, Tony Bobulinski, and carbon copied Mr. Biden and a third associate named Rob Walker, about “renumeration packages” for six individuals involved in a deal with CEFC.<sup>51</sup> The email listed an equity split in the new business venture that includes “10 held by H for the big guy?”<sup>52</sup> Although DOJ prosecutors prohibited IRS and FBI investigators from pursuing the identity of “the big guy” during the criminal investigation of Mr. Biden,<sup>53</sup> Mr. Bobulinski has publicly confirmed that not only is the email authentic, but also that “the big guy” refers to now-President Biden.<sup>54</sup> A week later, on May 20, 2017, Mr. Gilliar told Mr. Bobulinski in a WhatsApp message, “Don’t mention Joe being involved [in the CEFC deal], it’s only when u are face to face, I know u know that but they are paranoid[.]”<sup>55</sup>

Notwithstanding the significant evidence uncovered to date, President Biden has continuously changed the narrative on his involvement in his family’s business dealings. Following IRS whistleblower testimony to the Committee on Ways and Means,<sup>56</sup> the White House issued a statement that President Biden “was not in business with his son.”<sup>57</sup> In August 2023, a reporter asked President Biden if he lied about never speaking to his son about his

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<sup>46</sup> *Id.*

<sup>47</sup> May 10 Memo, *supra* note 21, at 25.

<sup>48</sup> Nov. 1 Memo, *supra* note 22 at 5.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 5-10.

<sup>51</sup> E-mail from James Gilliar to Tony Bobulinski et. al. (May 13, 2017, 5:48 AM).

<sup>52</sup> *Id.*

<sup>53</sup> Shapley Interview, *supra* note 23, at 18, 120.

<sup>54</sup> Michael Goodwin, *Hunter biz partner confirms email, details Joe Biden’s push to make millions from China: Goodwin*, N.Y. POST (Oct. 22, 2020).

<sup>55</sup> WhatsApp message from James Gilliar to Tony Bobulinski (May 20, 2017). *See also* Emma-Jo Morris et al., *Hunter Biden’s ex-business partner told ‘don’t mention Joe’ in text message*, N.Y. POST (last updated Oct. 23, 2020) (reporting that the message concerned Joe Biden’s involvement in the CEFC deal).

<sup>56</sup> *See generally* Shapley Interview, *supra* note 23; Ziegler Interview, *supra* note 23.

<sup>57</sup> *Press Briefing by Press Secretary Karine Jean-Pierre and FEMA Administrator Deanne Criswell*, THE WHITE HOUSE (Aug. 14, 2023).

business dealings.<sup>58</sup> President Biden replied, “no.”<sup>59</sup> Following contradictory testimony from one of Mr. Biden’s former business associates that President Biden was “on speakerphone” with Mr. Biden’s former business associates “talking business,” President Biden angrily told reporters, “I never talked business with anybody. I knew you’d have a lousy question.”<sup>60</sup> The reporter followed up, asking President Biden to explain why the question was lousy, and President Biden responded, “Because it’s not true.”<sup>61</sup> In his prepared remarks on December 13, Mr. Biden provided yet another account of President Biden’s involvement in his business dealings, claiming that his “father was not *financially* involved in [his] business.”<sup>62</sup>

The Committees are also investigating the national security implications of a Vice President’s or President’s (and candidates for such offices) immediate family members receiving millions of dollars from foreign nationals, foreign companies, or foreign governments without any oversight. Current financial disclosure laws and regulations do not require non-dependent family members of senior elected officials to provide any information to the public. Consequently, the Committees are seeking meaningful reforms to government ethics and disclosure laws that will provide necessary transparency into a Vice President’s or President’s immediate family members’ income, assets, and financial relationships.

The Committees also intend to craft legislation that would strengthen reporting requirements relating to certain foreign transactions involving senior elected officials’ family members and that would implement robust financial disclosure requirements that shed light on ownership of opaque corporate entities. Moreover, in order to prevent financial transactions from being structured in a way to evade oversight, the Committees are examining whether certain reporting requirements, including any new reporting requirements for senior elected officials’ family members, should extend for a period of time after a President or Vice President leaves office.

The Committees aim to draft legislation that delivers more transparency to the American people, deters foreign interests from attempting to obtain influence over and access to the highest levels of the federal government by entering business deals with Presidential and Vice-Presidential family members, discourages such family members from profiting from their relative’s public service, and ensures the nation is safe from our foreign adversaries. Mr. Biden’s deposition is critical in achieving these legislative goals. In particular, the Committee must understand precisely how such influence-peddling has occurred. Given the complicated financial transactions surrounding Mr. Biden’s foreign business dealings, as well as the apparently close relationship between his foreign business dealings during and after his father’s tenure as Vice President, it is imperative for the Committees to depose him to be able to shape effective and targeted legislative solutions that would expose and thus hopefully deter attempts at influence-

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<sup>58</sup> GOP Oversight, *Reporter: “Did you lie about never speaking to Hunter bout his business dealings?”*, YOUTUBE (Aug. 21, 2023), <https://www.youtube.com/watch?v=p6y5klQ9N1M>; Steven Nelson, *Biden insists he told truth about not talking foreign biz with Hunter – despite mounting evidence*, N.Y. POST (June 26, 2023).

<sup>59</sup> *Id.*

<sup>60</sup> Alexander Hall, *Biden scorched for response to question about talking to Hunter’s business associates: ‘Pathological liar,’* FOX NEWS (Aug. 10, 2023).

<sup>61</sup> *Id.*

<sup>62</sup> *Hunter Biden Statement on Subpoena and Investigation*, *supra* note 30.

peddling by similarly situated family members, including activities that could jeopardize national security.

In sum, the Committees have uncovered that the Biden family has accumulated more than \$15 million from foreign entities, with most going to Mr. Biden.<sup>63</sup> Mr. Biden was central to these business arrangements and his deposition is vital to properly understanding them. In addition, President Biden's statements regarding his involvement in his son's business ventures are collectively inconsistent and further underscore the need for Mr. Biden's testimony. It is vital to the Committees' investigation that Mr. Biden be deposed, under oath, about how he utilized his father and the power of his father's positions to influence foreign business abroad and enrich the Biden family.

### ***B. Hunter Biden's Refusal to Comply with the Committees' Subpoenas for a Deposition***

On November 8, 2023, and November 9, 2023, the Committee on Oversight and Accountability and the Committee on the Judiciary, respectively, issued to Robert Hunter Biden subpoenas to appear for a deposition on December 13, 2023, at 9:30 a.m.<sup>64</sup> The joint cover letter detailed the Committees' rationale for issuing the subpoenas, including to determine whether President Biden:

(1) took any official action or effected any change in government policy because of money or other things of value provided to himself or his family, including whether he asked then-Vice President Biden to intervene in a Ukrainian investigation of a company that paid your client substantial sums of money; (2) abused his office of public trust by providing foreign interests with access to him and his office in exchange for payments to his family or him; or (3) abused his office of public trust by knowingly participating in a scheme to enrich himself or his family by giving foreign interests the impression that they would receive access to him and his office in exchange for payments to his family or him.<sup>65</sup>

The cover letter noted that the "Biden family used corporate bank accounts of third-party associates to receive wires from foreign companies and nationals."<sup>66</sup> These "associates then dispersed money to various Biden family members in incremental payments over time."<sup>67</sup> Mr. Biden "was at the center of many of these transactions and actively involved in the web connecting the Biden family to foreign money."<sup>68</sup> Mr. Biden was able to bring in millions of dollars for the Biden family and did so by "leveraging the Biden brand and the positions of trust

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<sup>63</sup> *Hearing with IRS Whistleblowers About the Biden Criminal Investigation: Before the H. Comm. on Oversight & Accountability*, 118th Cong. (July 19, 2023).

<sup>64</sup> Nov. 8 Oversight Subpoena, *supra* note 27; Nov. 9 Judiciary Subpoena, *supra* note 27; Nov. 8 Letter, *supra* note 1.

<sup>65</sup> Nov. 8 Letter, *supra* note 1, at 4.

<sup>66</sup> *Id.* at 1.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

held by his father.”<sup>69</sup> For example, Mr. Biden “arranged and attended meetings between then-Vice President Biden and foreign individuals who directly or indirectly paid [Mr. Biden] millions of dollars, including individuals from Kazakhstan, Russian, and Ukraine.”<sup>70</sup> In short, Mr. Biden has the relevant information that the Committees need to determine whether President Joe Biden abused his oath of office to benefit himself and his family. The Committees also detailed the legislative purpose underlying the subpoena, explaining that Mr. Biden’s testimony is “relevant to ongoing efforts to craft legislative reforms to federal ethics and financial disclosure laws.”<sup>71</sup>

On November 28, 2023, Mr. Biden’s attorney, Abbe Lowell, wrote to the Committees regarding the subpoenas to Mr. Biden.<sup>72</sup> On behalf of Mr. Biden, Mr. Lowell disparaged and attacked the Committees’ inquiry, challenged the Committees’ legislative purpose in issuing the subpoenas, and demanded that the Committees treat Mr. Biden in a manner unlike any other witness in the investigation.<sup>73</sup> In particular, Mr. Lowell represented to the Committees that Mr. Biden would only “appear at a public Oversight and Accountability hearing.”<sup>74</sup>

On December 1, 2023, the Committees responded to Mr. Lowell’s letter.<sup>75</sup> The Committees informed Lowell about the relevant Supreme Court case law and evidence supporting the subpoenas.<sup>76</sup> Although the Committees notified Mr. Lowell that Mr. Biden would be allowed to testify at a public hearing at the appropriate time, the Committees denied Mr. Biden’s attempt to receive special treatment, explaining:

The subpoenas Mr. Biden has received compel him to appear before the Committees for a deposition; they are not mere suggestions open to Mr. Biden’s interpretation or preference. Several Justice Department, FBI, and IRS officials have testified in transcribed interview and deposition settings, as has Devon Archer, Mr. Biden’s business associate. Notably, other Hunter Biden business associates are also cooperating with our subpoenas and not demanding a public hearing first. Mr. Biden seems to believe that he should be treated differently than other witnesses before the Committees.<sup>77</sup>

The Committees asked Mr. Lowell to confirm by December 4 whether Mr. Biden would appear for his deposition.<sup>78</sup>

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<sup>69</sup> *Id.* During the transcribed interview of Devon Archer, a Biden business associate, Archer confirmed that then-Vice President Joe Biden was “the brand” that Mr. Biden sold. Archer Interview, *supra* note 33, at 29-30.

<sup>70</sup> Nov. 8 Letter, *supra* note 1, at 2 (citing Aug. 9 Memo, *supra* note 21, at 2)

<sup>71</sup> *Id.* at 4.

<sup>72</sup> Letter from Abbe D. Lowell, Partner, Winston & Strawn LLP, to Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability (Nov. 28, 2023) [hereinafter “Nov. 28 Letter”].

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 3.

<sup>75</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, and Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Abbe D. Lowell, Partner, Winston & Strawn LLP (Dec. 1, 2023) [hereinafter “Dec. 1 Letter”].

<sup>76</sup> *See id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

On December 6, 2023, Mr. Lowell responded to the Committees, writing that Mr. Biden had “chosen” to testify only at a public hearing and demanding that the Committees deviate from their standard investigative procedure to provide Mr. Biden with special treatment.<sup>79</sup> The same day, the Committees again responded to Mr. Lowell, reiterating that the subpoenas do not provide Mr. Biden a choice to make—rather, “the subpoenas compel him to appear for a deposition . . . .”<sup>80</sup> The Committees warned Mr. Biden that failure to appear pursuant to the terms of the subpoenas would result in the Committees initiating contempt of Congress proceedings.<sup>81</sup>

The following day, on December 7, 2023, the Committees issued a joint deposition notice for Mr. Biden to appear on December 13, 2023 at 9:30 a.m.<sup>82</sup> Biden did not appear for his deposition.<sup>83</sup> At 9:39 a.m. on December 13, 2023, the Committees convened the deposition and opened the record.<sup>84</sup> The Committees then introduced the following documents into the record: (1) the November 8, 2023 subpoenas issued by Chairmen Comer and Jordan compelling Mr. Biden to appear for a deposition on December 13, 2023, at 9:30 a.m.; (2) the November 28, 2023 letter from Mr. Lowell to Chairman Comer; (3) the December 1, 2023 letter from Chairmen Comer and Jordan to Mr. Lowell; (4) the December 6, 2023 letter from Mr. Lowell to Chairman Comer; (5) the December 6, 2023 letter from Chairmen Comer and Jordan to Mr. Lowell; and (6) the December 7, 2023 joint deposition notice issued by Chairmen Comer and Jordan.<sup>85</sup> Following further discussion by Members on both Committees, the deposition concluded at 9:58 a.m.<sup>86</sup>

Meanwhile, at around 9:40 a.m., Mr. Biden arrived on the grounds of the U.S. Capitol and read a prepared statement to an assembly of reporters.<sup>87</sup> In his prepared remarks, Mr. Biden generally denied the allegations against him and his family, attacked the Committees and the inquiry, and renewed his demand for special treatment in how the Committees obtained his testimony.<sup>88</sup> He read:

Let me state as clearly as I can. My father was not financially involved in my business, not as a practicing lawyer, not as a board member of Burisma, not in my partnership with a Chinese private businessman, not in my investments at home nor abroad, and certainly not as an artist. . . . There is no evidence to support the allegations that my father was financially involved in my business because it did not happen. James Comer, Jim Jordan, Jason Smith

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<sup>79</sup> Letter from Abbe D. Lowell, Partner, Winston & Strawn LLP to Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability at 3 (Dec. 6, 2023) [hereinafter “Lowell Dec. 6 Letter”].

<sup>80</sup> Letter from Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability and Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Abbe D. Lowell, Partner, Winston & Strawn LLP (Dec. 6, 2023) [hereinafter “Committees Dec. 6 Letter”].

<sup>81</sup> *Id.*

<sup>82</sup> Biden Joint Deposition Notice, *supra* note 28.

<sup>83</sup> *See generally* Deposition of Robert H. Biden (Dec. 13, 2023) [hereinafter “Biden Deposition”]; Jordain Carney, *Hunter Biden defies Public GOP subpoena, demanding public hearing at the Capitol*, POLITICO (Dec. 13, 2023).

<sup>84</sup> Biden Deposition, *supra* note 83, at 1.

<sup>85</sup> *Id.* at 6–7.

<sup>86</sup> *Id.* at 17.

<sup>87</sup> *See Hunter Biden Statement on Subpoena and Investigation*, *supra* note 30.

<sup>88</sup> *Id.*

and their colleagues have distorted the facts by cherry-picking lines from a bank statement, manipulating texts I sent, editing the testimony of my friends and former business partners, and misstating personal information that was stolen from me. . . . No matter how many times it is debunked, they continue to insist that my father’s support of Ukraine against Russia is the result of a non-existent bribe.<sup>89</sup>

Mr. Biden departed the Capitol without ever appearing for his deposition.

### ***C. Hunter Biden’s Purported Reasons for Non-Compliance with the Subpoenas Are Without Merit***

Through his attorney, Mr. Biden has offered several generalized and amorphous bases for his noncompliance with the Committees’ subpoenas. These excuses are unpersuasive, and the Committee rejects them.

First, in Mr. Lowell’s November 28 letter to the Committees, he suggested that the Committees’ investigation lacks a legitimate legislative purpose.<sup>90</sup> Contrary to this assertion, the Supreme Court has recognized that Congress has a “broad and indispensable” power to conduct oversight,<sup>91</sup> and that a legislative purpose is valid if it “concern[s] a subject on which legislation could be had.”<sup>92</sup> The Committees have repeatedly described the legislative purposes of the investigation,<sup>93</sup> including in direct correspondence with Mr. Lowell.<sup>94</sup> Mr. Lowell has not contested the legitimacy of these stated purposes but rather has taken issue with how the Committees have chosen to conduct their investigation, which is a matter for the Committees to decide, not Mr. Lowell or Mr. Biden.

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<sup>89</sup> *Id.*

<sup>90</sup> Nov. 28 Letter, *supra* note 72; *see also Hunter Biden Statement on Subpoena and Investigation*, *supra* note 30 (“I’m here today to answer at a public hearing, any *legitimate questions* Chairman Comer and the House Oversight Committee may have for me. I’m here today to make sure that the House committee’s *illegitimate investigations* of my family did not proceed on distortions, manipulated evidence and lies.” (emphasis added)).

<sup>91</sup> *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031 (2020) (quoting *Watkins v. United States*, 354 U.S. 178, 187, 215 (1957) (internal quotation marks omitted)).

<sup>92</sup> *Id.* (quoting *Eastland v. U.S. Servicemen’s Fund*, 421 U.S. 491, 506 (1975) (internal quotation marks omitted)). In the prepared remarks he delivered on the Capitol grounds on December 13, Mr. Biden claimed that the Committees were improperly investigating his personal affairs. This is not the case; however, to the extent that Mr. Biden’s personal affairs bear on the investigation, case law is clear that “Congress may inquire into private affairs and compel their exposure, if this exposure is in pursuit of an independent legislative purpose.” 1 RONALD D. ROTUNDA & JOHN E. NOVAK, TREATISE ON CONSTITUTIONAL LAW: SUBSTANCE AND PROCEDURE § 8.4(d)(iii) (2022) (citing *Watkins v. United States*, 354 U.S. 178 (1957)). *See also Barenblatt v. United States*, 360 U.S. 109, 127 (1959) (“Congress may not constitutionally require an individual to disclose his political relationships or other private affairs *except in relation to [a valid legislative] purpose.*” (emphasis added)); *Quinn v. United States*, 349 U.S. 155, 161 (1955) (stating that Congress’s “power to investigate, broad as it may be . . . cannot be used to inquire into private affairs *unrelated to a valid legislative purpose.*” (emphasis added)).

<sup>93</sup> *See, e.g., H. COMM. ON THE JUDICIARY ET AL., 118TH CONG., THE JUSTICE DEPARTMENT’S DEVIATIONS FROM STANDARD PROCESSES IN ITS INVESTIGATION OF HUNTER BIDEN*, at 77 (2023); Sept. 27 Memo, *supra* note 9, at 5 (Sept. 27, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al., to Merrick Garland, Att’y Gen., U.S. Dep’t of Just. (July 21, 2023).

<sup>94</sup> Dec. 1 Letter, *supra* note 75; Nov. 8 Letter, *supra* note 1.

The Committees are considering legislative reforms such as, but not limited to, meaningful reforms to government ethics and disclosure laws that will provide necessary transparency into a Vice President's or President's immediate family members' income, assets, and financial relationships, as well as potential reforms to the Foreign Agents Registration Act. The Committees are also weighing legislation that would strengthen reporting requirements related to certain foreign transactions involving senior elected officials' family members and that would implement robust financial disclosure requirements that shed light on ownership of opaque corporate entities. Moreover, to prevent financial transactions from being structured in a way to evade oversight, the Committees are examining whether certain reporting requirements, including any new reporting requirements for senior elected officials' family members, should extend for a period of time after a President or Vice President leaves office. Additionally, the Committees' oversight of DOJ's preferential treatment of Mr. Biden will inform potential legislation which could include strengthening laws protecting whistleblowers from retaliation, reforming the "special attorney" statute,<sup>95</sup> codifying the special counsel regulations,<sup>96</sup> and reforming DOJ's Tax Division.

Second, Mr. Biden has challenged the validity of the ongoing impeachment inquiry.<sup>97</sup> The House's constitutionally vested impeachment power is separate and distinct from its legislative powers.<sup>98</sup> Although the House approved House Resolution 918, which directed the Committees to continue their impeachment inquiry on the same day that Mr. Biden refused to appear for his deposition, such a resolution is not necessary for the House to conduct an impeachment inquiry.<sup>99</sup> The Constitution includes no requirement that the full House vote to start an impeachment inquiry. In fact, the House has launched several impeachment inquiries without a full House vote,<sup>100</sup> and four years ago a federal district court expressly rejected the argument that a House resolution is required to begin an impeachment inquiry.<sup>101</sup> As set forth in the memorandum issued on September 27, 2023, the impeachment inquiry started well before the Committees issued deposition subpoenas to Mr. Biden.<sup>102</sup>

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<sup>95</sup> See 28 U.S.C. § 515.

<sup>96</sup> See 28 C.F.R. § 600 *et seq.*

<sup>97</sup> Nov. 28 Letter, *supra* note 72; *Hunter Biden Statement on Subpoena and Investigation*, *supra* note 30. Even if this attack on the legitimacy of impeachment inquiry had merit, which it does not, the subpoenas issued to Mr. Biden by the Committees would still be valid in furtherance of the Committees' legislative oversight work as discussed above.

<sup>98</sup> GARVEY, *supra* note 7 ("By launching an impeachment inquiry, the House is effectively signaling a transition in the purpose of its investigations. Applied to the current topic, whereas previously, the committee investigations into the Biden family served the committees' consideration of potential legislation . . . the investigations are now also pursuing evidence relevant to a possible impeachable offense. These two purposes are not mutually exclusive.").

<sup>99</sup> See *In re Application of Comm. on Judiciary*, 414 F. Supp. 3d 129, 168 (D.D.C. 2019) ("Even in cases of presidential impeachment, a House resolution has never, in fact, been required to begin an impeachment inquiry."), *aff'd*, 951 F.3d 589 (D.C. Cir. 2020), *vacated and remanded sub nom. on other grounds DOJ v. House Comm. on the Judiciary*, 142 S. Ct. 46 (2021); H.R. Rep. No. 116-266, at 7 (2019) ("[N]either the Constitution nor House rules requires that the full House vote to authorize an [impeachment] inquiry.").

<sup>100</sup> For example, in the 1980s, the full House did not vote to authorize the impeachment inquiries involving Judge Harry Claiborne, Judge Alcee Hastings, or Judge Walter Nixon. And in 2019, the Speaker of the House announced the beginning of a formal impeachment inquiry into President Trump more than a month before the full House voted to authorize it.

<sup>101</sup> See *In re Application of Comm. on Judiciary*, 414 F. Supp. 3d at 168 ("Even in cases of presidential impeachment, a House resolution has never, in fact, been required to begin an impeachment inquiry.").

<sup>102</sup> See Sept. 27 Memo, *supra* note 9.

Moreover, by adopting House Resolution 917, the full House has expressly affirmed that “[t]he authority provided by clause 2(m) of Rule XI of the Rules of the House of Representatives to the Chairs of the Committees . . . included, from the beginning of the existing House of Representatives impeachment inquiry . . . the authority to issue subpoenas on behalf of such Committees for the purpose of furthering the impeachment inquiry.”<sup>103</sup> And the House has also “ratifie[d] and affirm[ed] any subpoenas previously issued . . . by the Chairs of the Committees on Oversight and Accountability, Ways and Means, or the Judiciary as part of the impeachment inquiry,”<sup>104</sup> which includes the subpoenas issued to Mr. Biden. Indeed, on June 12, 2023, and August 11, 2023, resolutions setting forth articles of impeachment against President Biden related to Mr. Biden’s business activities were introduced and referred to the Committee on the Judiciary.<sup>105</sup>

Finally, Mr. Biden challenges the venue for this testimony, objecting to the subpoenas’ compulsion for a nonpublic deposition and demanding to testify in public instead.<sup>106</sup> As the Committees have informed Mr. Biden, however, it has been the consistent practice of Committees of the House of Representatives in recent Congresses—during both Republican and Democrat majorities—as well as these Committees during this inquiry to obtain testimony initially in a deposition setting.<sup>107</sup> This practice, which includes alternating hour-long segments of questioning by the majority and minority, allows committees to methodically and thoroughly examine a matter through direct and cross examination without the time constraints of a hearing imposed by House rules. These depositions result in a deeper understanding of the matter and more fulsome assessment of the relevant facts.

As the Committees informed Mr. Biden, the Committees are willing to pursue public testimony at a future date; however, the Committee need not and will not accede to Mr. Biden’s demand for special treatment with respect to how he provides testimony. To alleviate Mr. Biden’s stated concerns about transparency with respect to his testimony, the Committees informed his attorney that the deposition would be videotaped and that the transcript would be released promptly following the deposition. Mr. Biden’s attorney, however, did not acknowledge the Committee’s concessions. In any event, it is up to the Committees to choose the investigative methods and tools that will best further their investigation; so long as those choices are lawful, Mr. Biden has no say in the matter.

In no uncertain terms, Mr. Biden has no valid reason for failing to comply with the Committees’ duly authorized subpoenas. Conversely, the Committees’ need for Mr. Biden’s testimony is well-established pursuant to Congress’s constitutionally prescribed legislative and impeachment functions. By flagrantly defying the Committees’ subpoenas, Mr. Biden has violated federal law.

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<sup>103</sup> H.R. Res. 917, 118th Cong. (2023).

<sup>104</sup> *Id.*

<sup>105</sup> See H.R. Res. 493, 118th Cong. (2023); H.R. Res. 652, 118th Cong. (2023).

<sup>106</sup> Nov. 28 Letter, *supra* note 72; Lowell Dec. 6 Letter, *supra* note 79; *Hunter Biden Statement on Subpoena and Investigation*, *supra* note 30.

<sup>107</sup> Dec. 1 Letter, *supra* note 75.

#### ***D. Precedent Supports the Committees’ Position to Proceed with Holding Hunter Biden in Contempt***

The Supreme Court has repeatedly noted that “the power to investigate is inherent in the power to make laws because “[a] legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change.””<sup>108</sup> Further, “[w]here the legislative body does not itself possess the requisite information—which not infrequently is true—recourse must be had to others who do possess it. Experience has taught that mere requests for such information often are unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion are essential to obtain what is needed.”<sup>109</sup> Accordingly, 2 U.S.C. § 192 provides that a witness summoned before Congress must appear or be “deemed guilty of a misdemeanor” punishable by a fine of up to \$100,000 and imprisonment for up to one year.<sup>110</sup> Like the “ordinary federal criminal statute,” 2 U.S.C. § 192 “requires a criminal intent—in this instance, a deliberate, intentional refusal to answer.”<sup>111</sup>

Congress has frequently held individuals in contempt for failing to comply with a duly issued subpoena. In the 116th and 117th Congress, the Democrat-controlled House “approved six criminal contempt of Congress citations” for such misconduct.<sup>112</sup> In fact, after congressional Democrats held White House officials Stephen Bannon and Peter Navarro in contempt of Congress, DOJ successfully pursued criminal charges against them.<sup>113</sup>

Mr. Biden has not asserted any claims of privilege, nor has he asserted any basis for immunity from answering questions. In correspondence with his attorney prior to the scheduled date of the deposition, the Committees addressed and rejected Mr. Biden’s justifications for not complying with the terms of the subpoenas, as well as his demand for special treatment.<sup>114</sup> The Committees specifically notified Mr. Biden, via his attorney, that his failure to appear for the deposition as required by the subpoenas would lead to the Committees initiating contempt of Congress proceedings.<sup>115</sup> Mr. Biden’s failure to appear for the deposition in the face of this clear advisement and warning by the Committees constitutes a willful failure to comply with the subpoena under 2 U.S.C. § 192.

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<sup>108</sup> *Eastland*, 421 U.S. at 504 (citing *McGrain v. Daugherty*, 273 U.S. 135, 175 (1927)).

<sup>109</sup> *Id.* at 504–05 (citing *McGrain*, 273 U.S. at 175).

<sup>110</sup> The prison term for this offense makes it a Class A misdemeanor. 18 U.S.C. § 3559(a)(6). By that classification, the penalty for contempt of Congress specified in 2 U.S.C. § 192 increased from \$1,000 to \$100,000. 18 U.S.C. § 3571(b)(5).

<sup>111</sup> *Quinn*, 349 U.S. at 165.

<sup>112</sup> TODD GARVEY, CONG. RSCH. SERV., LSB10974, CRIMINAL CONTEMPT OF CONGRESS: FREQUENTLY ASKED QUESTIONS, at 3 (2023).

<sup>113</sup> Press Release, U.S. Dep’t of Just., Former White House Advisor Convicted of Contempt of Congress (Sept. 7, 2023); Press Release, U.S. Dep’t of Just., Stephen K. Bannon Found Guilty by Jury of Two Counts of Contempt of Congress (July 22, 2022).

<sup>114</sup> Dec. 1 Letter, *supra* note 75; Committees Dec. 6 Letter, *supra* note 80.

<sup>115</sup> Committees Dec. 6 Letter, *supra* note 80.

## CONCLUSION

The Committees have accumulated significant evidence suggesting that President Biden knew of, participated in, and profited from foreign business interests engaged in by his son, about which the Committees intended to question Mr. Biden during his deposition.<sup>116</sup> However, Mr. Biden brazenly defied the Committees' subpoenas, choosing to read a prepared statement outside of the Capitol instead of appearing for a deposition as required by the subpoenas.<sup>117</sup> Mr. Biden's willful refusal to comply with the Committees' subpoenas constitutes contempt of Congress and warrants referral to the appropriate United States Attorney's Office for prosecution as prescribed by law.

## COMMITTEE CONSIDERATION

On January 10, 2024, the Committee met in open session and [ . . . ].

## COMMITTEE VOTES

In compliance with clause 3(b) of House rule XIII, the Committee states that the following recorded votes occurred during the Committee's consideration of the Report:

[ . . . ]

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

The Committee finds the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the *Congressional Budget Act of 1974*, and the requirements of clause 3(c)(3) of rule XIII and section 402 of the *Congressional Budget Act of 1974*, to be inapplicable to this Report. Accordingly, the Committee did not request or receive a cost estimate from the Congressional Budget Office and makes no findings as to the budgetary impacts of this Report or costs incurred to carry out the Report.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House rule XIII, no provision of this Report establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

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<sup>116</sup> Biden Joint Deposition Notice, *supra* note 28.

<sup>117</sup> See *Hunter Biden Statement on Subpoena and Investigation*, *supra* note 30.

## **PERFORMANCE GOALS AND OBJECTIVES**

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, this Report is to enforce the Committee's authority to subpoena and obtain testimony related to determining whether sufficient grounds exist to impeach President Joseph Robinette Biden Jr. and the sufficiency of federal ethics and financial disclosure laws.

## **ADVISORY ON EARMARKS**

In accordance with clause 9 of House rule XXI, this Report does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House Rule XXI.