

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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MEMORANDUM

June 10, 2024

To: Democratic Members of the Committee on Oversight and Accountability

Fr: Ranking Member Jamie Raskin

Re: Chairman Comer's Desperate and Ridiculous Contempt Resolution against Attorney General Merrick B. Garland

The Committee on Oversight and Accountability (the “Committee”) has been conducting an impeachment inquiry into President Joe Biden for a year and a half—essentially the entire duration of the 118th Congress. To date, the Committee has amassed more than 3.8 million pages of documents and 80 hours of testimony from transcribed interviews and depositions of 19 witnesses. Nowhere in this mountain of material is there any evidence of wrongdoing by the President—let alone an impeachable offense. Just last week, Chairman James Comer, together with Chairmen Jim Jordan and Jason Smith, conceded the collapse and failure of their 17-month investigation when they sent criminal referrals that did not include a single allegation of misconduct against the President and focused instead on “gotcha” accusations against the President’s son and brother based on their efforts to recollect years-old financial transactions, text messages, and conversations.¹

Among the millions of pages of documents that Committee Republicans have already received is a full transcript of President Biden’s interview with Special Counsel Robert K. Hur. This transcript, which was produced to the Committee by the Department of Justice (DOJ), accounts for the entirety of President Biden’s voluntary five-hour interview with the Special Counsel. Nowhere in the transcript’s 250 pages is there any evidence that President Biden committed an impeachable offense.

Desperate to blame someone—*anyone*—for the utter failure of this impeachment inquiry, Republicans have contrived an allegation that Attorney General Merrick Garland has impeded their impeachment inquiry by preventing them from hearing President Biden’s interview with Special Counsel Hur by withholding the audio recording. In fact, Republicans, and the American

¹ Committee on Oversight and Accountability Democrats, *Press Release: Ranking Member Raskin’s Statement on Republicans Issuing Criminal Referrals* (June 5, 2024) (online at oversightdemocrats.house.gov/news/press-releases/ranking-member-raskins-statement-republicans-issuing-criminal-referrals).

public, can already read the full content of that interview because the Attorney General has given the Committee the information it sought: the contents of the President’s interview with Special Counsel Hur. Hearing the President’s words rather than reading them will not change his words and certainly will not reveal any new evidence of an impeachable offense.

Attorney General Garland and the Biden Administration have made extraordinary efforts to accommodate the Committee’s interest in Special Counsel Hur’s investigation, working in good faith to provide the Committee with all the information it requested. In addition to the transcript of the President’s interview, the DOJ:

- Provided the entirety of the Special Counsel’s report;
- Provided the full transcript of the Special Counsel’s interview with the President’s ghostwriter, Mark Zwonitzer;
- Made available the two classified documents requested by the Committee;
- Provided requested correspondence regarding the Special Counsel’s report; and
- Facilitated the Special Counsel’s testimony about his report and investigation to the Committee on the Judiciary.

In other words, the DOJ and the Administration have provided the Committee with all the information it sought and with all the information it requires to conduct any legitimate oversight activity. Republicans have responded by attempting to hold the Attorney General in contempt based on meritless and preposterous claims of obstruction.

I. CONSIDERATION OF MERITLESS CONTEMPT RESOLUTION WAS A LATE-NIGHT SPECTACLE UNBECOMING OF THE COMMITTEE

The after-hours Committee business meeting Chairman Comer convened to consider the baseless contempt resolution was marred by political opportunism and truncated debate that was abruptly cut off by Chairman Comer after consideration of two Republican amendments and only a single Democratic amendment—in contravention of decades-long Committee precedent.

At approximately 8:00 p.m., on May 16, 2024, Chairman Comer convened the Oversight Committee to consider a resolution recommending that the House of Representatives hold Attorney General Garland in contempt.² By the time the Oversight Committee began its business meeting, the Judiciary Committee had already favorably reported a substantially similar contempt resolution, rendering the Oversight Committee’s consideration of its own analogous

² See Committee on Oversight and Accountability, *Full Committee Business Meeting* (May 16, 2024) (online at <https://oversight.house.gov/markup/full-committee-business-meeting-73/>).

resolution both duplicative and moot.³ Nonetheless, Chairman Comer proceeded with the Committee’s business meeting.⁴

It appears that immediately prior to the business meeting, the James Comer for Congress committee—in collaboration with WinRed, a Republican fundraising platform—circulated an email “[f]rom the desk of Oversight Chairman James Comer” seeking campaign donations that referenced Chairman Comer’s efforts to hold Attorney General Garland in contempt of Congress and asserting that “Biden and his advisors are terrified that I will release the recordings.”⁵ The letter was signed: “James Comer, Chairman, House Oversight Committee.” During the Committee meeting, Chairman Comer refused to recognize Rep. Stephen Lynch’s point of order requesting the opinion of the parliamentarian as to whether a motion to refer the Chairman’s conduct to the House Committee on Ethics would be in order.⁶

Three hours into the Committee meeting—much of it wasted by Republican Rep. Marjorie Taylor Greene repeatedly insulting Democratic Members of the Committee—and after just three amendments (two Republican and one Democratic) had been offered, Committee Republicans voted to cut off all debate and the consideration of any further amendments by calling the previous question. In doing so, Committee Republicans broke a decades-long precedent, honored by Chairs of both parties, of allowing fulsome debate and the consideration of all germane amendments at Committee business meetings. At the time Rep. Jake LaTurner moved the previous question, Chairman Comer knew that Democratic Members intended to offer two further amendments pursuant to a unanimous consent agreement to limit debate being negotiated by the Committee’s Republican and Democratic staffs at the request of the Chairman. Over Democratic Members’ vociferous objection to prematurely cutting off debate and the consideration of amendments, Chairman Comer called a vote on Rep. LaTurner’s motion to move the previous question, forcing immediate votes on the pending amendments and the

³ The business meeting, originally scheduled to begin at 11:00 a.m. on May 16, 2024, was postponed to permit several Republican Committee Members to travel to New York City to attend the criminal trial of former President Donald Trump, who was on trial for and later convicted of 34 felony counts of falsifying business records for his participation in a hush money scheme intended to silence his former mistresses prior to the 2016 presidential election. Committee on Oversight and Accountability, *Time Change: Business Meeting Notice* (May 15, 2024) (online at <https://docs.house.gov/meetings/GO/GO00/20240516/117325/HMKP-118-GO00-20240516-SD003.pdf>); *Oversight Delays Garland Contempt Hearing for Members to Attend Trump Trial*, The Hill (May 15, 2024) (online at <https://thehill.com/homenews/4667089-oversight-delays-merrick-garland-contempt-hearing-members-attend-donald-trump-trial/>); *Guilty: Trump Becomes First Former US President Convicted of Felony Crimes*, Associated Press (May 31, 2024) (online at <https://apnews.com/article/trump-trial-deliberations-jury-testimony-verdict-85558c6d08efb434d05b694364470aa0>).

⁴ See Committee on Oversight and Accountability, *Full Committee Business Meeting* (May 16, 2024) (online at <https://oversight.house.gov/markup/full-committee-business-meeting-73/>).

⁵ See *As GOP Demands Biden/Hur Audio, James Comer Gives Away the Game*, MSNBC (May 17, 2024) (online at www.msnbc.com/rachel-maddow-show/maddowblog/gop-demands-bidenhur-audio-james-comer-gives-away-game-rcna152752); see also Acyn (@Acyn), X (May 17, 2024) (online at <https://x.com/Acyn/status/1791323954168414469>) (“Moskowitz’s dramatic reading of Comer’s fundraising email is definitely worth a watch”); Committee on Oversight and Accountability, *Full Committee Business Meeting* (May 16, 2024) (online at <https://oversight.house.gov/markup/full-committee-business-meeting-73/>).

⁶ Committee on Oversight and Accountability, *Full Committee Business Meeting* (May 16, 2024) (online at <https://oversight.house.gov/markup/full-committee-business-meeting-73/>).

underlying contempt report recommending that Attorney General Garland be held in contempt. The report was adopted on a party line vote with all Democratic Members opposed.⁷

Cumulatively, the three amendments to the resolution drafted by Committee Democrats sought to clarify the factual timeline and accommodations provided to the Committee by the DOJ, as well as demonstrate the disingenuous nature of the claims of obstruction Chairman Comer has leveled against the Attorney General. Rep. Dan Goldman offered an amendment detailing the extraordinary cooperation exhibited by the DOJ in producing sensitive information and documents, and the extent to which the DOJ has provided all information the Committee has demanded in their subpoenas.⁸ All Committee Republicans voted to reject this amendment.⁹

As Chairman Comer knew when he cut off all further debate, Rep. Gerald E. Connolly and Rep. Kweisi Mfume each intended to offer one additional amendment. Rep. Connolly's amendment would have amended the report under consideration to make clear the fact that Chairman Comer has refused to release *any* of the transcripts of interviews conducted by Committee Republicans as part of their investigation into President Biden's handling of classified documents. In particular, Committee Republicans have refused to release the transcripts of interviews of Gary Stern, General Counsel for the National Archives and Records Administration; Kathy Chung, former executive assistant to then-Vice President Biden; an AV/IT Specialist at the Penn Biden Center for Diplomacy and Global Engagement; and the Business Manager of the Penn Biden Center for Diplomacy and Global Engagement.¹⁰

Rep. Mfume's amendment, for its part, would have amended the report to make clear that the contempt proceedings against Attorney General Garland mark the third occasion when Chairman Comer has attempted to hold an individual in contempt of Congress after they had already provided—or offered to provide—the information the Committee sought. Earlier in the

⁷ *Id.*

⁸ Representative Dan Goldman (NY-10), *Amendment to the Amendment in the Nature of a Substitute* (May 16, 2024) (online at <https://docs.house.gov/meetings/GO/GO00/20240516/117325/BILLS-118-ANStoContemptReport-G000599-Amdt-3.pdf>).

⁹ Committee on Oversight and Accountability, *Full Committee Business Meeting* (May 16, 2024) (online at <https://oversight.house.gov/markup/full-committee-business-meeting-73/>).

¹⁰ See Committee on Oversight and Accountability, *Democratic Staff Memorandum: Oversight Committee Investigation into the Presidential Records and Classified Records and Transcribed Interview of National Archives Official* (Mar. 7, 2023) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/03.07.2023%20-%20Democratic%20Member%20Memorandum%20re%20Gary%20Stern%20NARA%20TI.pdf>); Committee on Oversight and Accountability, *Democratic Staff Memorandum: Oversight Committee Investigation into Presidential and Classified Records and Transcribed Interview of Former Executive Assistant to then-Vice President Biden* (May 3, 2023) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/5.3.2023%20Chung%20Memo%20-%20FINAL.pdf>); Committee on Oversight and Accountability, *Press Release: Ranking Member Raskin's Statement on Voluntary Transcribed Interview with Penn Biden Center IT Staffer* (July 19, 2023) (online at <https://oversightdemocrats.house.gov/news/press-releases/ranking-member-raskin-s-first-statement-on-voluntary-transcribed-interview-with-penn>); Committee on Oversight and Accountability, *Press Release: Ranking Member Raskin's Statement on Voluntary Transcribed Interview with Penn Biden Business Manager* (July 21, 2023) (online at <https://oversightdemocrats.house.gov/news/press-releases/ranking-member-raskin-s-statement-on-voluntary-transcribed-interview-with-penn-0>).

Congress, Chairman Comer first attempted to use contempt proceedings to claim obstruction by Federal Bureau of Investigation (FBI) Director Christopher Wray in 2023, after the FBI had already made the Form FD-1023 Chairman Comer sought available for his review.¹¹ Chairman Comer also sought to have Hunter Biden held in contempt of Congress despite Hunter Biden's willingness to answer the Committee's questions under oath and his attempt to accept the Chairman's repeated invitations to do so at a public hearing.¹² As noted above, and in breach of longstanding Committee precedent, Committee Republicans voted to prematurely cut off all debate and deprive Reps. Connolly and Mfume of the opportunity to propose these amendments and debate them with Committee Members.

Under Chairman Comer's leadership, the Committee's consideration of the resolution to hold Attorney General Garland in contempt was a late-night spectacle unbecoming of the Committee, and indeed of the House of Representatives, in which Democratic Members were prevented from debating and offering amendments to the Chairman's baseless contempt report.

II. REPUBLICANS ARE TRYING TO HOLD THE ATTORNEY GENERAL IN CONTEMPT FOR INFORMATION THE DEPARTMENT OF JUSTICE HAS ALREADY PROVIDED

Committee Republicans assert that Attorney General Garland should "be found to be in contempt of Congress for failure to comply with a congressional subpoena" issued in identical form by Oversight Committee Chairman Comer and Judiciary Committee Chairman Jim Jordan.¹³ Specifically, Committee Republicans speciously allege that the Attorney General has "impeded [their] impeachment inquiry" against President Biden by failing to provide audio recordings of President Biden's voluntary interview with Special Counsel Hur, as well as the audio recording of Special Counsel Hur's interview with his ghostwriter, Mark Zwonitzer.¹⁴

To be clear, the DOJ and the Biden Administration have provided the information sought by each of the subpoena's four requests, including by providing full transcripts of the Special

¹¹ See Committee on Oversight and Accountability, *Press Release: Ranking Member Raskin's Statement Following Call with FBI Director Chris Wray* (May 31, 2024) (online at <https://oversightdemocrats.house.gov/news/press-releases/ranking-member-raskin-s-statement-following-call-with-fbi-director-chris-wray>). The Form FD-1023 form, which Chairman Comer publicly released and promoted, was later revealed to be disinformation aimed at undermining American elections planted by an individual with significant ties to Russian intelligence, who has been criminally indicted for his lies to the FBI. See Committee on Oversight and Accountability, *Press Release: Ranking Member Raskin Rebukes Chairman Comer for Turning Congressional Committee into Mouthpiece for Russian Propaganda and Disinformation* (Mar. 11, 2024) (online at <https://oversightdemocrats.house.gov/news/press-releases/ranking-member-raskin-rebukes-chairman-comer-turning-congressional-committee>).

¹² See Committee on Oversight and Accountability, *Press Release: Ranking Member Raskin Condemns Committee Republicans Contempt Vote* (Jan. 10, 2024) (online at <https://oversightdemocrats.house.gov/news/press-releases/ranking-member-raskin-condemns-committee-republicans-contempt-vote>).

¹³ Committee on Oversight and Accountability, *Resolution Recommending that the House of Representatives Find United States Attorney General Merrick B. Garland in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on Oversight and Accountability* (May 2024) (online at <https://oversight.house.gov/wp-content/uploads/2024/05/Garland-Contempt-Report-re-Hur-Report.pdf>).

¹⁴ *Id.*

Counsel's interviews of President Biden and Mr. Zwonitzer. These transcripts already provide the Committee with the content of these interviews. Hearing these interviews on an audio tape rather than reading them in a transcript will not change the content of these interviews.

A. DOJ and the Biden Administration Have Fully Cooperated with the Committee's Subpoena

On February 12, 2024, the Chairmen of the Committee on Oversight and Accountability, Committee on the Judiciary, and Committee on Ways and Means requested information from the DOJ regarding Special Counsel Hur's investigation of the President, including documents and communications related to the Special Counsel's interviews of President Biden and his ghostwriter, Mark Zwonitzer.¹⁵ The DOJ responded to the Chairmen's request four days later, explaining that "several of the materials listed in [the] February 12 letter require review for classification and protection of national defense information" and, consistent with usual practice, the DOJ would conduct a "review to assess confidentiality interests" involving other Executive Branch agencies.¹⁶

Despite the DOJ's prompt response, Chairmen Comer and Jordan each issued a subpoena on February 27, 2024, for the following documents and information:

1. All documents and communications, including audio and video recordings, related to the Special Counsel's interview of President Joseph R. Biden Jr.;
2. All documents and communications, including audio and video recordings, related to the Special Counsel's interview of Mr. Mark Zwonitzer;
3. The documents identified as "A9" and "A10" in Appendix A of Mr. Hur's report, which relate to President Biden's December 11, 2015, call with then-Ukrainian Prime Minister Arseniy Yatsenyuk; and
4. All communications between or among representatives of the DOJ, including the Office of the Special Counsel, the Executive Office of the President, and President Biden's personal counsel referring or relating to Special Counsel Hur's report.¹⁷

¹⁵ Letter from Chairman James Comer, Committee on Oversight and Accountability, Chairman Jim Jordan, Committee on the Judiciary, and Chairman Jason Smith, Committee on Ways and Means, to Attorney General Merrick Garland, Department of Justice (Feb. 12, 2024) (online at https://oversight.house.gov/wp-content/uploads/2024/02/DOJ-Transcript-video-letter-02122024.FINAL_.pdf).

¹⁶ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary, and Chairman Jason Smith, Committee on Ways and Means (Feb. 16, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/DOJ.240216%2CResponse%20to%20Comer%20Jordan%20Smith%20re%20Biden%20Classified%20Docs%20-%20Hur%20021224.pdf>).

¹⁷ Letter from Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary, to Attorney General Merrick Garland, Department of Justice (Feb. 27, 2024)

The DOJ subsequently produced documents and information responsive to each of the subpoena's four requests. On March 7, the Department produced documents responsive to requests 3 and 4 of the Committee's February 27 subpoena, including "the two documents cited in the report that were requested by the Committee," which the Department offered to make available "through an in camera production in a facility appropriate for viewing classified information," and "communications between the Department and the Executive Office of the President or President Biden's personal counsel referring or relating to Mr. Hur's report."¹⁸ On March 12, the Department produced the full transcript—totaling more than 250 pages—of the voluntary interview Special Counsel Hur conducted with President Biden on October 8, 2023, and October 9, 2023, responsive to request 1 of the Committee's subpoena.¹⁹ On April 8, 2024, the Department produced the transcript of Special Counsel Hur's interview with Mark Zwonitzer, responsive to request 2 of the Committee's subpoena.²⁰

DOJ's responses to the Chairman's subpoena continued the Biden Administration's demonstrated cooperation with Congress's oversight of Special Counsel Hur's investigation. This cooperation began with the Special Counsel's report itself. President Biden "did not assert executive privilege over any portion of Special Counsel Hur's final report, which the Department provided promptly and in full to Congress." In addition, the DOJ "readily agreed to allow Special Counsel Hur to testify publicly" before the Committee on the Judiciary.²¹ Special Counsel Hur spent more than five hours answering congressional questions under oath.²²

B. The Committee Has a Full Transcript of the President's Voluntary Interview, and No New Evidence Will Materialize from an Audio Recording of His Interview

(online at https://oversight.house.gov/wp-content/uploads/2024/02/Subpoena-Cover-Letter-to-AG-Garland_Hur-Report-Materials-Joint-Letter-2-27-24.pdf).

¹⁸ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability (Mar. 7, 2024) (online at https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/2024.03.07-OUT-Comer-SCO%20Subpoena_0.pdf).

¹⁹ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability, (Mar. 12, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/DOJ.240312.Response%20to%20Comer%20re%20Subpoena%20-%20Hur%20and%20Biden%20Classified%20Docs.pdf>).

²⁰ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary (Apr. 8, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/2024.04.08-OUT-Jordan-Comer-Re%20SCO%20Hur.pdf>).

²¹ Letter from Edward Siskel, Counsel to the President, to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary (May 16, 2024) (online at www.politico.com/f/?id=0000018f-8149-d166-a5af-df5b358d0001).

²² Committee on the Judiciary, *Hearing on the Report of Special Counsel Robert K. Hur* (Mar. 12, 2024) (online at <https://judiciary.house.gov/committee-activity/hearings/hearing-report-special-counsel-robert-k-hur>).

As discussed above, the DOJ has produced to the Committee a full, 250-page transcript of President Biden’s voluntary, five-hour interview with Special Counsel Hur.²³ The Department has also produced the transcripts of Special Counsel Hur’s interview with Mark Zwonitzer.²⁴

By definition, the written transcript of the President’s voluntary interview with Special Counsel Hur contains content that will be identical to audio recordings of the same event, and Republicans therefore already know everything the President said in the interview. Chairman Comer asserts, however, that contempt proceedings against Attorney General Garland are warranted because the DOJ did not provide the information in the Chairman’s preferred format—an audio recording rather than a written transcript.

Committee Republicans have provided no reasonable explanation of how receiving information in audio format would provide any evidence relevant to the Committee’s impeachment inquiry that is absent from the written transcript. The Committee has simply asserted that its impeachment inquiry “will suffer” without the audiotapes because the tapes are purportedly a “unique and invaluable medium of information that capture vocal tone, pace, inflections, verbal nuance, and other idiosyncrasies.”²⁵ Incomprehensibly, Republicans have further asserted that “verbal nuances in President Biden’s answers about his mishandling of classified information would assist the Committees’ inquiry into whether he abused his office of public trust for his family’s financial gain” and therefore “audio recordings would offer unique and important information to advance the Committees’ impeachment inquiry.”²⁶ To be clear, the full transcript of the President’s voluntary interview reports all of the words he said, and these words do not show any evidence that the President abused his office—or committed any high crime or misdemeanor. Republicans’ assertion that verbal nuances that a written transcript cannot capture could possibly reveal evidence of impeachable conduct is simply ludicrous.

²³ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability (Mar. 12, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/DOJ.240312.Response%20to%20Comer%20re%20Subpoena%20-%20Hur%20and%20Biden%20Classified%20Docs.pdf>). Those interview transcripts are now publicly available. See *Read the Full Transcript of Robert Hur’s Interview with President Biden*, Washington Post (Mar. 12, 2024) (online at www.washingtonpost.com/national-security/2024/03/12/biden-hur-transcript-classified-documents-memory/).

²⁴ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary (Apr. 8, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/2024.04.08-OUT-Jordan-Comer-Re%20SCO%20Hur.pdf>).

²⁵ Letter from Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary, to Attorney General Merrick Garland, Department of Justice (Apr. 15, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/2024-04-15.Comer%20Jordan%20to%20Garland-DOJ%20re%20Hur%20-Subpoena%20follow-up%202.pdf>).

²⁶ Committee on Oversight and Accountability, *Resolution Recommending that the House of Representatives Find United States Attorney General Merrick B. Garland in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on Oversight and Accountability* (May 2024) (online at <https://oversight.house.gov/wp-content/uploads/2024/05/Garland-Contempt-Report-re-Hur-Report.pdf>).

It is also notable that the Republicans' contempt report includes a lengthy quote from the written transcript of the President's interview and, based on the excerpt, concludes that "this interview is relevant to whether legislative reforms are necessary"—an apparent concession that the written transcript is sufficient to satisfy the Committee's legislative needs.²⁷

It further appears that the DOJ's cooperation was so fulsome that it exceeded the Committee's need for information. Indeed, it appears neither the Chairman nor the Committee's Republican staff ever made arrangements to review the documents identified as "A9" and "A10" identified in Request 3 of the Committee's subpoena, which the DOJ offered to make available for *in camera* review.

As the DOJ noted, Committee Republicans have also failed to explain why the information they seek "outweighs the serious harms to the Department's articulated law enforcement interests."²⁸ The DOJ has repeatedly emphasized its need to protect sensitive law enforcement information, explaining that "producing the audio files would compound the likelihood that future prosecutors will be unable to secure" the type of exceptional cooperation afforded by President Biden to Special Counsel Hur in his classified documents investigation.²⁹

The DOJ has explained that it must:

[A]lso take seriously the harm producing [the audio files] could do to the public's interest in effective law enforcement investigations. Although some risks diminish once an investigation closes or a case resolves, the production of sensitive law enforcement files from a closed matter can still harm prosecutorial decision-making, privacy and reputational interests of witnesses and uncharged parties, and sources and methods, among other law enforcement concerns that the public has a strong interest in protecting.³⁰

Further, prior to the May 16 Committee meeting, President Biden asserted executive privilege over the requested audio files at Attorney General Garland's request. The White House transmitted a letter to Chairman Comer asserting this privilege and explaining that "because of the President's longstanding commitment to protecting the integrity, effectiveness, and

²⁷ *Id.*

²⁸ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary (Apr. 25, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/HJC%20COA%20Response%20-%204.25.24.pdf>).

²⁹ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary (Apr. 8, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/2024.04.08-OUT-Jordan-Comer-Re%20SCO%20Hur.pdf>).

³⁰ Letter from Department of Justice to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary (Apr. 25, 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/HJC%20COA%20Response%20-%204.25.24.pdf>).

independence of the Department of Justice and its law enforcement investigations, he has decided to assert executive privilege over the recordings.”³¹

Committee Republicans decided to move ahead with contempt despite this assertion of privilege by claiming the assertion of privilege was untimely, that the White House waived privilege by providing the transcripts, and that the “audio recordings [...] are likely to contain evidence important to the Committee’s inquiry.”³² These claims are, however, internally inconsistent. Committee Republicans appear to be claiming both (1) that the transcripts and audio recording contain the same information, such that by producing one, the White House has waived privilege as to both; and (2) that they are different information, such that despite already having the transcript, the audio recordings contain “evidence important to the Committee’s inquiry” that somehow is not captured by the transcript.³³

Despite Committee Republicans’ claims to the contrary, it is clear that the Committee has received extraordinary cooperation from the DOJ throughout its impeachment inquiry and has received or been given access to all of the information it subpoenaed. The assertion that the Attorney General has in some way obstructed the Committee’s investigation—or that there is any new evidence to be found in an audio recording of an interview for which the Committee already has a full transcript—is simply false.

C. The DOJ and Biden Administration’s Record of Extraordinary Cooperation with the Committee’s Investigation Stand in Stark Contrast to the Trump Administration’s Record of Obstruction

The DOJ’s record of extraordinary cooperation with Republicans’ impeachment inquiry against President Biden stands in stark contrast to the Trump Administration’s record of obstructing congressional investigations and refusing to comply with congressional subpoenas.³⁴ In fact, one study found that the Trump Administration refused to provide information in more than 100 congressional investigations and inquiries from 2017 to 2021.³⁵

Unlike the Biden Administration, the Trump Administration refused to comply with the 2019 impeachment inquiry into then-President Trump. President Trump ordered his entire

³¹ Letter from Edward Siskel, Counsel to the President, to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Jim Jordan, Committee on the Judiciary (May 16, 2024) (online at www.politico.com/f/?id=0000018f-8149-d166-a5af-df5b358d0001).

³² Chairman James Comer, Committee on Oversight and Accountability, *Amendment to the Amendment in the Nature of a Substitute to the Committee Report for the Resolution Recommending that the House of Representatives Find Attorney General Merrick B. Garland in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on Oversight and Accountability* (May 16, 2024) (online at <https://docs.house.gov/meetings/GO/GO00/20240516/117325/BILLS-118-ANStoContemptReport-C001108-Amdt-2.pdf>).

³³ *Id.*

³⁴ See *House Holds Barr and Ross in Contempt over Census Dispute*, New York Times (July 17, 2019) (online at www.nytimes.com/2019/07/17/us/politics/barr-ross-contempt-vote.html).

³⁵ Co-Equal, *Trump Administration Oversight Precedents* (Mar. 2024) (online at www.co-equal.org/guide-to-congressional-oversight/trump-administration-oversight-precedents).

Administration not to cooperate with the House’s impeachment inquiry’s requests for interviews of federal officials with factual knowledge relevant to the investigation.³⁶ In total, 12 federal officials refused to testify before Congress, ten of whom defied congressional subpoenas.³⁷ Similarly, the White House explained in correspondence to Congress that it would not comply with congressional subpoenas issued to it for relevant documents as part of the impeachment inquiry.³⁸

During the Trump Administration, under then-Attorney General William Barr, the DOJ, itself refused to cooperate with multiple congressional investigations. For example, in 2018, the Committee on Oversight and Reform launched an investigation into the Department of Commerce’s effort to include a citizenship question in the upcoming 2020 census.³⁹ Attorney General Barr, together with then-Secretary of Commerce Wilbur Ross, obstructed the Committee’s investigation by refusing to provide key documents specifically identified in bipartisan Committee subpoenas. Further, during the investigation, information emerged that a DOJ official, John Gore, had pressured the Department of Commerce to include the citizenship question at the direction of President Trump.⁴⁰ After Mr. Gore refused to answer more than 150 questions during a transcribed interview in March 2019, the Committee issued a bipartisan subpoena for his deposition testimony.⁴¹ Attorney General Barr instructed Mr. Gore not to appear at the deposition as required by the subpoena, and several subsequent attempts by the Committee to obtain Mr. Gore’s deposition testimony failed.⁴² Accordingly, the Committee voted to hold Attorney General Barr, as well as Secretary Ross, in contempt of Congress in June 2019, and the full House approved the contempt resolutions in July 2019.⁴³

In another instance, in April 2019, reports emerged that Special Counsel Robert Mueller had written to Attorney General Barr expressing concern that a publicly released memorandum written by Attorney General Barr summarizing the Special Counsel’s investigation into Russian interference in the 2016 presidential election “did not fully capture the context, nature, and substance of this Office’s work and conclusions” and urging Mr. Barr to release the full content

³⁶ House Permanent Select Committee on Intelligence, *The Trump-Ukraine Impeachment Inquiry Report* (Dec. 2019) (online at www.govinfo.gov/content/pkg/GOVPUB-Y4_IN8_18-PURL-gpo129303/pdf/GOVPUB-Y4_IN8_18-PURL-gpo129303.pdf).

³⁷ *Id.*

³⁸ *Id.*

³⁹ Committee on Oversight and Accountability, *Resolution Recommending that the House of Representatives Find William P. Barr, Attorney General of the United States, and Wilbur L. Ross, Jr., Secretary of Commerce, in Contempt of Congress for Refusal to Comply with Subpoenas Duly Issued by the Committee on Oversight and Reform*, 116th Cong. (2019) (online at www.govinfo.gov/content/pkg/CRPT-116hrpt125/pdf/CRPT-116hrpt125.pdf).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*; *House Votes to Hold Attorney General Barr, Commerce Secretary Ross in Contempt for Failing to Comply with Subpoena on 2020 Census*, Washington Post (July 17, 2019) (online at www.washingtonpost.com/politics/house-to-vote-to-hold-barr-ross-in-contempt-over-2020-census-citizenship-question/2019/07/17/8dbeb35c-a89c-11e9-a3a6-ab670962db05_story.html).

of the Special Counsel's report.⁴⁴ Only one month later, Attorney General Barr released a version of the Special Counsel's report.⁴⁵ This publicly released report contained significant redactions. Subsequently, the House Judiciary Committee sought to convene a hearing to review the Special Counsel's findings, including the Attorney General's role in their release, but Attorney General Barr refused to testify.⁴⁶

Former President Trump and the Trump Administration provide clear examples of what actual obstruction of a congressional investigation looks like. By contrast, the Biden Administration, Attorney General Garland, and the DOJ have already provided all of the information Republicans have sought about Special Counsel Hur's investigation, including about President Biden's interview with the Special Counsel, and there is no new information that Republicans can learn about the contents of this interview from audio tapes of it.

III. UNABLE TO IDENTIFY ANY WRONGDOING BY THE PRESIDENT, REPUBLICANS ARE TRYING TO BLAME THE ATTORNEY GENERAL FOR THE FAILURE OF A SHAM IMPEACHMENT EFFORT THAT FELL APART MONTHS AGO

Republicans are desperate both to insinuate that some evidence against the President still remains to be uncovered and to claim that their 17-month impeachment effort failed to find any evidence of an impeachable offense because someone has withheld that evidence. As such, Republicans have manufactured the allegation that Attorney General Garland has obstructed their impeachment inquiry by withholding the tape of President Biden's interview with Special Counsel Hur. As previously discussed, no new evidence of an impeachable offense will emerge from an audio tape of an interview for which Republicans already have a full transcript. And, to be clear, Republicans know the full content of that interview because the DOJ gave them a transcript of it that records precisely how President Biden answered every question he was asked.

A. Republicans' Sham Impeachment Effort Has Been Based on Russian Disinformation Debunked by the Former Trump Administration

Former President Trump, who was impeached twice by the House of Representatives, instructed House Republicans to get revenge by impeaching President Biden and even publicly

⁴⁴ See *Mueller Complained That Barr's Letter Did Not Capture 'Context' of Trump Probe*, Washington Post (Apr. 30, 2019) (online at www.washingtonpost.com/world/national-security/mueller-complained-that-barrs-letter-did-not-capture-context-of-trump-probe/2019/04/30/d3c8fdb6-6b7b-11e9-a66d-a82d3f3d96d5_story.html); see also *Read Attorney General William Barr's Summary of the Mueller Report*, New York Times (Mar. 24, 2019) (online at www.nytimes.com/interactive/2019/03/24/us/politics/barr-letter-mueller-report.html).

⁴⁵ *Mueller Reveals Trump's Attempts to Choke off Russia Probe*, Associated Press (Apr. 18, 2019) (online at <https://apnews.com/article/north-america-donald-trump-ap-top-news-politics-russia-48f9d5132d7a4e2d823edad8fc407979>).

⁴⁶ Co-Equal, *Trump Administration Oversight Precedents* (Mar. 2024) (online at www.co-equal.org/guide-to-congressional-oversight/trump-administration-oversight-precedents).

conveyed the allegations that were to become the basis of House Republicans' failed effort.⁴⁷ In August 2023, former President Trump posted the following on social media:

The Republicans in Congress, though well meaning, keep talking about an Impeachment "Inquiry" on Crooked Joe Biden. Look, the guy got bribed, he paid people off, and he wouldn't give One Billion Dollars to Ukraine unless they "got rid of the Prosecutor." Biden is a Stone Cold Crook-You don't need a long INQUIRY to prove it, it's already proven. These lowlifes Impeached me TWICE (I WON!), and Indicted me FOUR TIMES - For NOTHING! Either IMPEACH the BUM, or fade into OBLIVION. THEY DID IT TO US!⁴⁸

In an effort to fulfill Donald Trump's demand and support his presidential campaign, Republicans eagerly embraced the unsworn, unverified allegations contained in a tipsheet called an FD-1023 falsely claiming—just as former President Trump had—that Joe Biden took bribes from a Ukrainian energy company called Burisma on whose board his son, Hunter Biden, served.⁴⁹

Critically, allegations that Joe Biden acted corruptly in Ukraine had already been repeatedly debunked and revealed as Russian disinformation by numerous federal entities—including by Donald Trump's own Department of the Treasury and by the intelligence community—long before House Republicans made them the centerpiece of their impeachment inquiry.⁵⁰ In 2021, the Trump Administration's Secretary of State, Michael Pompeo, denounced the Russian-backed individuals who "coordinated dissemination and promotion of fraudulent or unsubstantiated allegations involving a U.S. political candidate" (Joe Biden) and "repeated public statements advancing malicious narratives that U.S. Government officials have engaged in corrupt dealings in Ukraine."⁵¹

⁴⁷ H.Res. 755, 116th Cong. (2019); H.Res. 24, 117th Cong. (2021).

⁴⁸ Donald J. Trump, @realDonaldTrump, Truth Social (Aug. 27, 2023) (online at <https://truthsocial.com/@realDonaldTrump/posts/110963746628215974>).

⁴⁹ Hannity, *Fox News* (Jan. 11, 2024) (online at www.foxnews.com/video/6344716486112).

⁵⁰ U.S. Department of the Treasury, *Press Release: Treasury Sanctions Russia-Linked Election Interference Actors* (Sept. 10, 2020) (online at <https://home.treasury.gov/news/press-releases/sm1118>); U.S. Department of the Treasury, *Press Release: Treasury Takes Further Action Against Russian-Linked Actors* (Jan. 11, 2021) (online at <https://home.treasury.gov/news/press-releases/sm1232>); U.S. Department of State, *Sanctioning Russia-Linked Disinformation Network for Its Involvement in Attempts to Influence U.S. Election* (Jan. 11, 2021) (online at <https://2017-2021.state.gov/sanctioning-russia-linked-disinformation-network-for-its-involvement-in-attempts-to-influence-u-s-election/>); National Counterintelligence and Security Center, *Press Release: Statement by NCSC Director William Evanina: Election Threat Update for the American Public* (Aug. 7, 2020) (online at <https://www.odni.gov/index.php/newsroom/press-releases/press-releases-2020/3473-statement-by-ncsc-director-william-evanina-election-threat-update-for-the-american-public>); National Intelligence Council, *Foreign Threats to the 2020 US Federal Elections* (Mar. 10, 2021) (online at www.dni.gov/files/ODNI/documents/assessments/ICA-declass-16MAR21.pdf); Special Counsel Robert S. Mueller, III, *Report on the Investigation into Russian Interference in the 2016 Presidential Election* (Mar. 2019) (online at www.justice.gov/archives/sco/file/1373816/dl).

⁵¹ U.S. Department of State, *Sanctioning Russia-Linked Disinformation Network for Its Involvement in Attempts to Influence U.S. Election* (Jan. 11, 2021) (online at <https://2017-2021.state.gov/sanctioning-russia-linked-disinformation-network-for-its-involvement-in-attempts-to-influence-u-s-election/>).

Nonetheless, Chairman Comer claimed the FD-1023 tipsheet was so central to the Committee’s ongoing investigation of President Biden that he falsely accused the DOJ of “seeking to bury this record to protect the Bidens.”⁵² And Judiciary Committee Chairman Jordan made it explicitly clear that the FD-1023 was “the heart of this matter.”⁵³

Republicans continued to trumpet the allegations in the FD-1023 until February 2024, when Alexander Smirnov, the confidential human source behind the allegations the tipsheet recorded, was arrested for lying to the FBI about Joe Biden and Hunter Biden. According to Special Counsel David Weiss, Mr. Smirnov admitted that “officials associated with Russian intelligence were involved in passing a story about Business person 1 [Hunter Biden].”⁵⁴ Critically, the Special Counsel has warned that “Smirnov’s efforts to spread misinformation about a candidate of one of the two major parties in the United States continues” [*sic*] and “[h]e is actively peddling new lies that could impact U.S. elections after meeting with Russian intelligence officials in November.”⁵⁵

At the request of Committee Democrats, Rudy Giuliani’s right-hand man, Lev Parnas voluntarily testified at the Committee’s second impeachment hearing in March 2024. In his testimony, Mr. Parnas explained that “Rudy Giuliani, on behalf of then President Donald Trump, tasked me with a mission to travel the globe, finding dirt on the Bidens so then an array of networks could spread misinformation about them, thus securing the 2020 election for Donald J. Trump.” Despite Mr. Parnas’ best efforts, however, “In nearly a year traveling the world and interviewing officials in different countries, I found precisely zero evidence of the Bidens corruption in Ukraine.” Mr. Parnas also made clear that “[t]he only information ever pushed on the Bidens in Ukraine has come from one source and one source only: Russia and Russian agents.”⁵⁶

Stunningly, even two Republican Committee Chairmen have warned that Republican Members of Congress are amplifying Russian propaganda and disinformation. In a recent interview, House Foreign Affairs Committee Chairman Michael McCaul stated: “I think Russian propaganda has made its way into the United States, unfortunately, and it’s infected a good chunk of my party’s base.”⁵⁷ House Permanent Select Committee on Intelligence

⁵² Senator Chuck Grassley, *Press Release: Grassley Obtains & Releases FBI Record Alleging VP Biden Foreign Bribery Scheme* (July 20, 2023) (online at www.grassley.senate.gov/news/news-releases/grassley-obtains-and-releases-fbi-record-alleging-vp-biden-foreign-bribery-scheme).

⁵³ Hannity, *Fox News* (Jan. 11, 2024) (online at www.foxnews.com/video/6344716486112).

⁵⁴ Government’s Application for Review of Magistrate Judge’s Bail Order, Memorandum of Points and Authorities, 5 (Feb. 21, 2024) *United States of America v. Alexander Smirnov*, Central District of California (No. CR 2:24-cr-00091-ODW) (online at https://storage.courtlistener.com/recap/gov.uscourts.cacd.915062/gov.uscourts.cacd.915062.11.0_4.pdf).

⁵⁵ *Id.* at 20–21.

⁵⁶ Committee on Oversight and Accountability, Testimony of Lev Parnas, *Hearing on Influence Peddling: Examining Joe Biden’s Abuse of Public Office* (Mar. 20, 2024) (online at <https://oversight.house.gov/wp-content/uploads/2024/03/Parnas-Lev-Written-Statement.pdf>).

⁵⁷ *McCaul to Action*, PUCK (Apr. 2, 2024) (online at <https://puck.news/ukraine-aid-q-and-a-rep-mccaul-on-republican-support-for-bill/>); see *Luxury Yachts and Other Myths: How Republican Lawmakers Echo Russian*

Chairman Michael Turner similarly warned: “We see directly coming from Russia attempts to mask communications that are anti-Ukraine and pro-Russia messages, some of which we even hear being uttered on the House floor.”⁵⁸

Despite the overwhelming evidence that the allegations at the heart of their impeachment inquiry are thoroughly discredited Russian disinformation, the Majority’s contempt resolution against Attorney General Garland *again repeats* the same Burisma-Ukrainian conspiracy theory pushed by Russian agents and Rudy Giuliani.⁵⁹

B. Republicans Have Repeatedly Misrepresented and Withheld Evidence Throughout Their Impeachment Inquiry

House Republicans, including Chairman Comer, have frequently misrepresented the evidence they have collected in their investigation of Joe Biden—and selectively withheld evidence—in order to smear President Biden with false allegations.

For example, in November 2023, Chairman Comer selectively released one page of a four-page internal bank email chain and, on the basis of that single page, falsely claimed that regulators were concerned that Hunter Biden’s financial activities amounted to money laundering. In fact, the three other pages of the email chain—which contain later emails directly contradicting the Chairman’s public claims—explicitly state that the transactions at issue were “reasonable and consistent with the business profile” and that the entity was “transparent.”⁶⁰

In December 2023, Chairman Comer blatantly mischaracterized transaction records showing Hunter Biden repaid his father for car payments that Joe Biden—who was at the time a private citizen—made on Hunter Biden’s behalf while Hunter Biden was in and out of rehabilitation for drug addiction. In fact, the *Wall Street Journal* confirmed that Joe and Hunter Biden purchased the vehicle in June 2018 from Bayshore Ford Truck Sales in Delaware, even interviewing the now-retired salesman who organized the deal and who confirmed that Joe Biden signed for the financing of the vehicle.⁶¹ The *Wall Street Journal* article includes a photograph of Hunter Biden shaking hands with the salesman as Joe Biden looks on, and notes that even

Propaganda, NBC News (Apr. 14, 2024) (online at www.nbcnews.com/politics/luxury-yachts-myths-republican-lawmakers-echo-russian-propaganda-rcna147293).

⁵⁸ *State of the Union*, CNN (Apr. 7, 2024) (online at www.cnn.com/videos/title-2248506); See *State of the Union Transcripts*, CNN (Apr. 7, 2024) (online at <https://transcripts.cnn.com/show/sotu/date/2024-04-07/segment/01>).

⁵⁹ Committee on Oversight and Accountability, *Resolution Recommending that the House of Representatives Find United States Attorney General Merrick B. Garland in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on Oversight and Accountability* (May 2024) (online at <https://oversight.house.gov/wp-content/uploads/2024/05/Garland-Contempt-Report-re-Hur-Report.pdf>).

⁶⁰ Oversight Committee Democrats (@OversightDems), X (Nov. 29, 2023) (online at <https://twitter.com/OversightDems/status/1730011731986927930?s=20>) (citing Oversight Committee (@GOPoversight), X (Nov. 29, 2023) (online at <https://twitter.com/GOPoversight/status/1729983592648855652>)).

⁶¹ *GOP Sees Skulduggery in Hunter Biden Paying His Father Back for Truck*, Wall Street Journal (Dec. 4, 2023) (online at www.wsj.com/politics/gop-sees-skulduggery-in-hunter-biden-paying-his-father-back-for-truck-5d40741a).

“[m]essages on Hunter Biden’s abandoned laptop also support details about the transaction and the monthly repayments from Hunter Biden to his father.”⁶² As *CNN* reported:

Republicans on the House Oversight Committee released a document showing payment from Hunter Biden’s business entity, Owasco PC, to President Joe Biden when he was not in office, but neglected to include evidence that the president’s son was repaying his father for a car.⁶³

Similarly, Chairman Comer misrepresented checks from James Biden to his brother, Joe Biden—when both were private citizens—to insinuate that they showed President Biden “profited” from his family’s business. Chairman Comer even claimed that Joe Biden had engaged in “bribery” and “money laundering.” In fact, the checks, as well as other bank records in the Committee’s possession all make clear that James Biden was simply repaying his brother for a short-term, interest-free loan that was extended and repaid when both were private citizens. The Chairman’s false claims to the contrary were immediately fact-checked by at least ten different news outlets, including *Washington Examiner* and *CNN*.⁶⁴

True to form, Republicans have also misrepresented the conclusions of Special Counsel Hur’s investigation. For example, Judiciary Committee Chairman Jordan alleged that Joe Biden had retained classified documents after serving as Vice President because “he had 8 million reasons to ignore the rules”—referring to the \$8 million advance Joe Biden and his wife received to write three books.⁶⁵ In fact, Special Counsel Hur wrote in his report that President Biden’s “published book is not known to contain classified information” and that “the Afghanistan documents and the 2009 troop surge played no role in *Promise Me, Dad*, the book Mr. Biden wrote.”⁶⁶

Republicans have not limited their misrepresentations about the classified documents investigation to the Hur Report. The Committee’s contempt report references four transcribed interviews that the Committee conducted with Gary Stern, National Archives and Records Administration (NARA) General Counsel; Kathy Chung, a former executive assistant to

⁶² *Id.*

⁶³ *House Oversight GOP Release Document Showing Payments Made by Hunter Biden to His Dad; Documents Say They Were for a Car*, *CNN* (Dec. 5, 2023) (online at www.cnn.com/2023/12/04/politics/oversight-committee-hunter-biden-car-payments/index.html).

⁶⁴ *Joe Biden May Have Lent James Biden Money to Justify ‘Loan’ Repayments, Bank Records Show*, *Washington Examiner* (Nov. 8, 2023) (online at www.washingtonexaminer.com/news/house/bank-records-show-joe-biden-paid-james-biden); *Fact Check: Evidence Supports Democrats’ Case that Joe Biden Made a Personal Loan to His Brother*, *CNN* (Oct. 31, 2023) (online at www.cnn.com/2023/10/31/politics/fact-check-evidence-supports-democrats-case-that-joe-biden-made-a-personal-loan-to-his-brother/index.html).

⁶⁵ *The Fact Checker: How Jim Jordan Tried to Connect the Dots on Biden’s \$8 Million Book Deal*, *Washington Post* (May 18, 2024) (online at www.washingtonpost.com/politics/2024/05/18/how-jim-jordan-connected-dots-bidens-8-million-book-deal/).

⁶⁶ Special Counsel Robert K. Hur, *Report on the Investigation into Unauthorized Removal, Retention, and Disclosure of Classified Documents Discovered at Locations Including the Penn Biden Center and the Delaware Private Residence of President Joseph R. Biden, Jr.* (Feb. 2024) (online at www.justice.gov/storage/report-from-special-counsel-robert-k-hur-february-2024.pdf).

President Biden; and two employees of the Penn Biden Center.⁶⁷ Committee Republicans have refused to release the transcripts of these interviews and have instead mischaracterized these witnesses' testimony for over a year. In particular, Chairman Comer falsely asserted that Ms. Chung was specifically hired to move classified documents on the recommendation of Hunter Biden. As reflected in the interview transcript, Ms. Chung's attorney explained, in a letter to the Chairman, that she was "hired as an Assistant to the Vice President responsible for office affairs," and not "for the purpose of helping with moving documents."⁶⁸ When Ms. Chung's attorney demanded that Chairman Comer correct his "absurd statements" about Ms. Chung, Republican staff privately conceded that the Chairman "misspoke."⁶⁹ However, Chairman Comer failed to publicly retract his false claims. Chairman Comer has also repeatedly promoted racist and xenophobic conspiracy theories about Ms. Chung, falsely suggesting a connection between Ms. Chung and the Chinese Communist Party.⁷⁰

Republicans have also falsely alleged that the DOJ's decision to prosecute former President Trump for mishandling classified information—but not to prosecute President Biden—proves that DOJ is biased and actively protecting President Biden. For example, House Speaker Mike Johnson previously said, "remember now, the DOJ is indicting one president with politically motivated charges and they are now carrying the water for another amid very similar allegations."⁷¹

To be clear, Special Counsel Hur is a registered Republican who served as a senior political appointee in the Trump Administration.⁷² Prior to his appointment as Special Counsel to investigate President Biden, Mr. Hur served as Associate Deputy Attorney General at the DOJ

⁶⁷ Committee on Oversight and Accountability, *Resolution Recommending that the House of Representatives Find United States Attorney General Merrick B. Garland in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on Oversight and Accountability*, at 6 (May 2024) (online at <https://oversight.house.gov/wp-content/uploads/2024/05/Garland-Contempt-Report-re-Hur-Report.pdf>).

⁶⁸ Letter from William W. Taylor, III, Zuckerman Spaeder LLP, to Chairman James Comer, Committee on Oversight and Accountability (Mar. 14, 2023) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/2023-03-14%20Correspondence%20to%20Chairman%20Comer.PDF>); See also Memorandum from Committee on Oversight and Accountability Democratic Staff to Democratic Members of the Committee on Oversight and Accountability, *Oversight Committee Investigation into Presidential and Classified Records and Transcribed Interview of Former Executive Assistant to then-Vice President Biden* (May 3, 2023) (online at [https://oversightdemocrats.house.gov/files/5.3.2023%20Chung%20Memo%20-%20FINAL.pdf](https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/5.3.2023%20Chung%20Memo%20-%20FINAL.pdf)).

⁶⁹ Call with Staff, Committee on Oversight and Accountability, and Counsel for Ms. Chung, Zuckerman Spaeder LLP (Mar. 27, 2023).

⁷⁰ *Congressman Comer Joined Jenn Pellegrino on Newsmax Tonight*, Newsmax (Jan. 24, 2023) (online at www.facebook.com/CongressmanComer/videos/573322927985215/).

⁷¹ FactCheck.Org, *Republicans Distort Facts on Special Counsel Decision Not to Charge Biden* (Feb. 16, 2024) (online at www.factcheck.org/2024/02/republicans-distort-facts-on-special-counsel-decision-not-to-charge-biden/); C-SPAN, *House Republican Leadership News Conference* (Feb. 14, 2024) (online at www.c-span.org/video/?533580-1/house-republican-leadership-news-conference).

⁷² *Who is Robert Hur, Special Counsel for Biden Classified Documents Probe?*, Washington Post (Feb. 16, 2024) (online at www.washingtonpost.com/national-security/2023/01/12/special-counsel-robert-hur-biden-classified-documents/).

from 2017 to 2018, during the Trump Administration.⁷³ Mr. Hur was subsequently appointed by Donald Trump to serve as U.S. Attorney for the District of Maryland in 2018.⁷⁴

Special Counsel Hur affirmed during his testimony before the Judiciary Committee that “Attorney General Garland did not interfere with my efforts and I was able to conduct a fair, thorough and independent investigation,” and that “[p]artisan politics had no place whatsoever in my work.”⁷⁵ In fact, in his report, the Special Counsel laid out the clear differences between the conduct of Donald Trump and President Biden, noting:

It is not our role to assess the criminal charges pending against Mr. Trump, but several material distinctions between Mr. Trump’s case and Mr. Biden’s are clear. Unlike the evidence involving Mr. Biden, the allegations set forth in the indictment of Mr. Trump, proven, would clearly establish not only Mr. Trump’s willfulness but also serious aggravating facts. Most notably, after being given multiple chances to return classified documents and avoid prosecution, Mr. Trump allegedly did the opposite. According to the indictment, he not only refused to return documents for months, but he also obstructed justice by enlisting others to destroy evidence and then to lie about it. In contrast, Mr. Biden alerted authorities, turned in classified documents to the National Archives and the Department of Justice in 2022 and 2023, consented to the search of multiple locations including his homes, permitted the seizure and review of handwritten notebooks he believed to be his personal property, and in numerous other ways cooperated with the investigation.⁷⁶

In sum, there is simply no basis to hold Attorney General Garland in contempt. Far from impeding the Committee, the Attorney General has cooperated with the Committee’s investigation and provided it with all the information it has sought, including the complete, 250-page transcript of the President’s voluntary, five-hour interview with Special Counsel Hur. The audio recording of that interview will not in any way change the President’s words, nor will it miraculously reveal the evidence of impeachable conduct that Committee Republicans have vainly sought in the 3.8 million pages of documents and 80 hours of testimony collected as part of their 17-month impeachment inquiry. These contempt proceedings are a transparent effort to find a scapegoat for the embarrassing failure of this sham impeachment effort.

⁷³ *Who is Robert Hur? A Look at the Special Counsel Due to Testify on Biden Classified Documents Case*, Associated Press (Mar. 11, 2024) (online at <https://apnews.com/article/robert-hur-biden-special-counsel-classified-documents-0f8e4a9d99f8b7d035f75f78e9b8d3d3>).

⁷⁴ *Id.*

⁷⁵ *Hur Says Garland Did Not Interfere—Live Updates*, Politico (Mar. 12, 2024) (online at www.politico.com/live-updates/2024/03/12/congress/hur-says-garland-did-not-interfere-00146565); *Hur Defends His Findings as Political Knives Come Out*, New York Times (Mar. 12, 2024) (online at www.nytimes.com/live/2024/03/12/us/hur-biden-testimony).

⁷⁶ Special Counsel Robert K. Hur, *Report on the Investigation into Unauthorized Removal, Retention, and Disclosure of Classified Documents Discovered at Locations Including the Penn Biden Center and the Delaware Private Residence of President Joseph R. Biden, Jr.* (Feb. 2024) (online at www.justice.gov/storage/report-from-special-counsel-robert-k-hur-february-2024.pdf).