

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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April 20, 2023

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I understand from public statements that you intend to hold a press conference or issue a report discussing the substance of Suspicious Activity Reports (SARs) that you, other Republican Committee Members, and your staff reviewed at the U.S. Department of Treasury as part of your investigation into the President and his family members. This past weekend, on a Fox News appearance, and in subsequent interviews, you began providing descriptions of the content of SARs filed by financial institutions, in apparent disregard of the strict confidentiality provisions contained in the Bank Secrecy Act (BSA), which prohibit the unauthorized disclosure of information contained in SARs.¹ Based on press statements by you and other Republican Members, therefore, I write to share my profound concerns about your actions and urge the utmost caution going forward.

I have noted, with some amazement, that in your public appearances, you refer to these SARs as “bank violations.”² However, SARs do “not reflect any finding by the bank that a crime has been committed,” much less do they reflect such a finding by a Department of Treasury official or a federal court.³ Indeed, SARs are nothing but “preliminary and unverified tip-and-lead information.”⁴ This means that, by definition, they are not evidence of wrongdoing; they are not even evidence of an existing investigation.

The sheer number of existing SARs demonstrates that SARs cannot rationally be described as “bank violations.” In 2020 alone, financial institutions submitted 2.5 million SARs

¹ Rep. James Comer (@RepJamesComer), Twitter (Apr. 16, 2023) (online at <https://twitter.com/jamescomer/status/1647645180260958211?s=46>); 31 U.S.C. §§ 5318(g)(2), 5321, and 5322.

² *Id.*

³ Bank Policy Institute, *The Truth About Suspicious Activity Reports*, (Sept. 22, 2020) (online at <https://bpi.com/the-truth-about-suspicious-activity-reports/>).

⁴ Letter from Assistant Secretary Jonathan Davidson, Department of the Treasury, to the Honorable James Comer, Ranking Member, Committee on Oversight and Reform (Sept. 2, 2022) (online at <https://oversight.house.gov/wp-content/uploads/2022/09/09.02.2022-Response-to-Representative-Comer.pdf>).

to the U.S. government, a vast universe of reports of financial activity which produces only a tiny number of actionable leads that are actually pursued by the government.⁵ As the Bank Policy Institute (BPI) has explained, “Since banks are subject to enforcement action if they fail to file a SAR when they should have, but suffer no sanction if they file a useless SAR, the general presumption is to file a SAR.”⁶ In fact, according to a BPI study, only 4% of SARs result in any follow-up action from law enforcement agencies.⁷

SARs contain information that could be used to unfairly and permanently damage the reputation of potentially millions of our constituents—individuals and businesses who rely on the Bank Secrecy Act and the integrity of the banking system—who have done absolutely nothing wrong.

Moreover, these “tip and lead” documents often contain sensitive and confidential information that the Treasury Department warns would be dangerous in the hands of criminals. If unlawfully accessed or disclosed, this information could not only expose individual customers to various kinds of fraudulent and predatory activity but allow criminals to learn about the SARs process at financial institutions and undermine potential or ongoing law enforcement investigations or proceedings. Committee Democrats are also mindful of the Executive Branch’s warnings that “disclosure or improper use of this highly sensitive information can undermine the BSA’s statutory purposes and the Executive Branch’s conduct of law enforcement, intelligence, and national security activities.”⁸ For all of these reasons, federal law prohibits the unauthorized disclosure of a SAR, including by government officials to media outlets.⁹

I therefore urge you not to take any actions that would set a dangerous precedent for this Committee regarding the potentially unlawful disclosure of confidential and law enforcement information—not just in this investigation but in others going forward. Violating the confidentiality provisions of the Bank Secrecy Act, particularly to release unverified information about the finances of private citizens, poses a danger not only to the integrity of our financial reporting systems, of which SARs are one component, but also to the integrity of this Committee’s work and methods.

Given the legal regime in this field and the important policy considerations dictating strict confidentiality, I urge you to exercise extreme caution with regard to this confidential law

⁵ *Suspicious Activity Reports Related to Cash Transactions Surge*, Wall Street Journal, (Feb. 9, 2021) (online at www.wsj.com/articles/suspicious-activity-reports-related-to-cash-transactions-surge-11612900800).

⁶ Bank Policy Institute, *The Truth About Suspicious Activity Reports* (Sept. 22, 2020) (online at <https://bpi.com/the-truth-about-suspicious-activity-reports/>).

⁷ *Id.*


⁸ Letter from Assistant Secretary Jonathan Davidson, Department of the Treasury, to the Honorable James Comer, Ranking Member, Committee on Oversight and Reform (Sept. 2, 2022) (online at <https://oversight.house.gov/wp-content/uploads/2022/09/09.02.2022-Response-to-Representative-Comer.pdf>).

⁹ 31 U.S.C. §§ 5318(g)(2), 5321 and 5322; *United States v. Edwards*, No. 1:19-cr-00064-GHW (S.D.N.Y. Oct. 16, 2018) (Complaint).

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enforcement information and avoid characterizing or mischaracterizing the unverified allegations within these documents.

Sincerely,



Jamie Raskin
Ranking Member