

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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MEMORANDUM

March 12, 2024

To: Democratic Members of the Committee on Oversight and Accountability

Fr: Democratic Staff

Re: Committee Republicans Issue Secret Subpoena for Phone Records

As part of their 14-month-long investigation of President Joe Biden’s family members, Committee Republicans have received over 100,000 pages of documents and hours of testimony from nearly 20 witnesses. This evidence has established over and over again that President Biden has not engaged in any wrongdoing, much less an impeachable offense. Clearly, however, Republicans’ purported impeachment inquiry is not driven by facts or evidence but by former President Donald Trump’s insatiable demands for political retribution, as well as by the pull of Russian propaganda and disinformation that Committee Republicans have repeatedly echoed and amplified.¹

Even though Chairman James Comer’s “impeachment inquiry” purports to be focused on the conduct of President Biden, throughout this investigation, Chairman Comer has sought—and received—extensive personal bank records of a number of private citizens, including the President’s son, brother, and sister-in-law, based on subpoenas issued in secret. Many of these bank records encompass more than 15 years’ worth of bank and credit card statements and have resulted in the production of inherently private information about routine—and wholly irrelevant—consumer transactions, such as the amount paid for a child’s dance lessons, the number of times someone has been to the hospital, how many parking tickets someone has paid, how often someone eats at Papa John’s or has coffee at Starbucks, and how much someone spends on groceries at Safeway.²

¹ E.g., FactCheck.Org, *Indictment of FBI Informant Undermines Centerpiece of GOP’s Impeachment Case* (Feb. 16, 2024) (online at www.factcheck.org/2024/02/indictment-of-fbi-informant-undermines-centerpiece-of-gops-impeachment-case/).

² Letter from Ranking Member Jamie Raskin, Committee on Oversight and Accountability, to Chairman James Comer, Committee on Oversight and Accountability (Mar. 12, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/FINAL%202023.03.12.%20JBR%20to%20Comer%20re%20Mazars%20BofA%20Subpoena.pdf>); Memorandum from Democratic Staff to Democratic Members, Committee on Oversight and Accountability, *Committee Republicans Conducting Investigation into Biden Family Behind Veil of Secrecy* (Apr. 6, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2023.04.06%20Memo%20re%20Secretive%20Investigation.pdf>).

Chairman Comer has also conducted transcribed interviews with nearly 20 more witnesses, including the President's son and brother.

This evidentiary record has unequivocally and irrefutably established that President Biden never benefitted from his family members' business ventures, nor did he ever take any official action to benefit his family members or their business ventures.³

Rather than acknowledging the collapse of their allegations and failure of this investigation, Chairman Comer has instead decided to issue a subpoena, in secret, to compel AT&T to produce over 15 years' worth of "account information, communications, and payment history of all AT&T accounts affiliated with Robert Hunter Biden."⁴ According to Chairman Comer, this subpoena may even cover "a personal line Joe Biden utilized while Vice President."⁵ The records sought by the subpoena amount to a staggering volume of detail concerning personal communications.

Chairman Comer's justification for this outrageously broad and invasive subpoena is flimsy at best. In the cover letter accompanying his subpoena to AT&T, Chairman Comer points to testimony from Eric Schwerin—who assisted Joe Biden in managing his household finances while he served as Vice President—stating that he "wrote and signed a check on behalf of Joe Biden to Hunter Biden for a cell phone bill he paid for his father."⁶ Mr. Schwerin's statements

³ See, e.g., Letter from Ranking Member Jamie Raskin, Committee on Oversight and Accountability, to Stefan Passantino, Counsel to Anthony Bobulinski (Feb. 20, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2024-02-20.JBR%20to%20Passantino%20re%20Bobulinski.pdf>); Memorandum from Democratic Staff to Democratic Members, Committee on Oversight and Accountability and Committee on the Judiciary, *Latest Series of Transcribed Interviews in Republicans' Sham Impeachment Inquiry Fails to Uncover Any Evidence of Wrongdoing by President Biden* (Feb. 12, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2024-02-12.COA%20HJC%20DEM%20Memo%20re%20Transcribed%20Interviews.pdf>); Committee on Oversight and Accountability, Minority Press Office Memorandum, *Fact Sheet—Mountain of Evidence Shows No Wrongdoing by President Biden* (Dec. 1, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/20231201%20Oversight%20Democrats%20Staff%20Memo%20on%20Impeachment%20Inquiry.pdf>); Memorandum from Democratic Staff to Democratic Members, Committee on Oversight and Accountability and Committee on the Judiciary, *IRS and FBI Witnesses Debunk Republicans' False Claims About Political Interference in Special Counsel Weiss's Investigation* (Sept. 27, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2023-09-27%20Joint%20Democratic%20Memorandum%20re%20IRS%20and%20FBI%20Witnesses%20Debunk%20Political%20Interference%20Claims.pdf>); Memorandum from Democratic Staff to Democratic Members, Committee on Oversight and Accountability, *Transcribed Interview of Former FBI Supervisory Special Agent* (Aug. 16, 2023) (online at https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2023-08-16.Democratic%20Member%20Memorandum%20re%20FBI%20SSA%20Transcript_0.pdf); Memorandum from Democratic Staff to Democratic Members, Committee on Oversight and Accountability, *Transcribed Interview of Devon Archer* (Aug. 3, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2023-08-03.Democratic%20Member%20Memorandum%20re%20Archer%20Transcribed%20Interview%20Final.pdf>).

⁴ Letter from Chairman James Comer, Committee on Oversight and Accountability, to David Chorzempa, Vice President and Associate General Counsel, AT&T (Mar. 6, 2024).

⁵ *Id.*

⁶ *Id.*

during his transcribed interview—a transcript that Chairman Comer has refused to release publicly—makes clear that this payment was pedestrian and innocuous:

Q: Do you recall any times where Hunter Biden made any type of payments for his dad for anything?

A: Nothing – I do not recall anything. It’s possible there were small things here and there, but I don’t recall anything major. Can I just ask you to clarify the one question?

Q: Sure.

A: Payments that were – that he paid for and was not paid back or reimbursed for, or –

Q: Any payments that may have been reimbursed later, any payments that you can recall that Hunter Biden made for Joe Biden.

A: Yeah. I do know that they – that Hunter had a – I think it was with AT&T – cell phone account, and his dad had a phone line on that account. Like a friends and family account. So Hunter would pay the full bill and his dad would reimburse him for his line for it.⁷

* * *

A: Yeah. My recollection is that that’s what this is referring to. That this is, I think, 2010. I think that there were a number of months—and I don’t know the amount, but probably no more than 6—where Hunter had been paying his dad’s cell phone bill, and we were going to have his dad pay him back once that happened. I think his dad reimbursed him on a monthly basis, but there was like a 6 month—as we initially got set up, I think that’s what this is referring to.⁸

* * *

Q: Okay. And then I want to go back to something you said earlier. The mechanics – just on the mechanics of the payment – the reimbursement for the wireless bill. How did the mechanics go of Joe Biden reimbursing Hunter Biden as far as making the payment?

A: I’d write a check out of Joe Biden’s account and deposit it in Hunter’s account.

Q: Okay. So you would write the check?

⁷ Committee on Oversight and Accountability and Committee on the Judiciary, Transcribed Interview of Eric Schwerin at 129 (Jan. 30, 2024).

⁸ *Id.* at 130.

A: Yeah.

Q: Okay. Do you remember how much that check was for?

A: It was 100, 120 bucks a month. What a regular cell phone bill would be.

Q: Okay. And it's your recollection that it was about 6 months? That was the only timeframe that Hunter was making the payment for Joe Biden's wireless bill?

A: That was my recollection, yeah.⁹

Chairman Comer's letter to AT&T also alludes to Republicans' claim that Hunter Biden called his father on December 4, 2015, at the request of executives from Burisma.¹⁰ Although Chairman Comer claims this allegation is based on Devon Archer's testimony in his July 31, 2023, transcribed interview, the letter fails to mention that Devon Archer clarified multiple times during that interview that he understood Hunter Biden to have called "D.C." and did not have any reason to believe that Hunter Biden had called his father.¹¹ Hunter Biden's recent testimony made clear that he in fact did not call his father that evening.¹²

In his letter, Chairman Comer asserts that "the Oversight Committee is concerned that foreign nationals and foreign companies appear to have sought access and influence by engaging in lucrative business relationships with high-profile political figures' immediate family members."¹³ Despite this professed concern about foreign influence, he has astonishingly refused to issue a single subpoena to compel Jared Kushner to provide information regarding the billions of dollars he received from foreign governments. Shortly after he left government service, Mr. Kushner, who worked as senior adviser to his father-in-law, then-President Donald Trump, and oversaw U.S. foreign policy in the Middle East, received billions of dollars from sovereign wealth funds controlled by Saudi Arabia, Qatar, and the United Arab Emirates (U.A.E.), over the objections of the official advisors to the Saudi fund, who had serious doubts about Mr. Kushner's lack of

⁹ *Id.* at 151.

¹⁰ Letter from Chairman James Comer, Committee on Oversight and Accountability, to David Chorzempa, Vice President and Associate General Counsel, AT&T (Mar. 6, 2024).

¹¹ *E.g.*, Committee on Oversight and Accountability, Transcribed Interview of Devon Archer at 37 (July 31, 2023) (online at <https://oversight.house.gov/wp-content/uploads/2023/08/Devon-Archer-Transcript.pdf>) ("Question: He told you expressly he called his father or that he called D.C.? Answer: D.C., D.C.").

¹² Committee on Oversight and Accountability and Committee on the Judiciary, Transcribed Interview of R. Hunter Biden at 183 (Feb. 28, 2023) (online at https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/Hunter-Biden-Transcript_Redacted.pdf) ("I can say emphatically that I never, ever, ever picked up the phone to call my dad to tell him to do anything . . . on behalf of Burisma."); *Id.* at 184 ("I know there was never a phone call to my father. I can say that under oath."); Committee on Oversight and Accountability, Transcribed Interview of Devon Archer at 37 (July 31, 2023) (online at <https://oversight.house.gov/wp-content/uploads/2023/08/Devon-Archer-Transcript.pdf>) ("Question: He told you expressly he called his father or that he called D.C.? Answer: D.C., D.C.").

¹³ Letter from Chairman James Comer, Committee on Oversight and Accountability, to David Chorzempa, Vice President and Associate General Counsel, AT&T (Mar. 6, 2024).

experience and the soundness of his newly formed private equity fund.¹⁴ As even Chairman Comer has had to acknowledge, “what Kushner did crossed the line of ethics.”¹⁵

Chairman Comer has also allowed Donald Trump’s lawyers, acting on the Chairman’s apparent or implied authority, to release Mazars USA from its legal obligation to provide the Committee with documents and information related to payments received by former President Trump’s businesses from foreign governments during his presidency. Shockingly, Mr. Comer allowed Mazars to evade this legal obligation despite the fact that the limited documents and information that the Committee *was* able to obtain before Mazars was released from its obligation revealed nearly \$8 million in illegal and unconstitutional payments that Mr. Trump accepted from foreign countries while he was making critical foreign policy and national security decisions involving those same countries as Commander in Chief.¹⁶ Again, Chairman Comer has done so despite conceding he “do[es]n’t disagree with the Democrats and their criticism of the previous administration.”¹⁷

This subpoena for 15 years’ worth of Hunter Biden’s phone records is just the latest evidence that Republicans’ investigation, which has failed to uncover so much as a scintilla of evidence of an impeachable offense by President Biden, is nothing more than a transparent effort by the Chairman to harass the President and his family, indulge Mr. Trump’s demands for political retribution, and amplify Russian propaganda and disinformation. To paraphrase Chairman Jim Jordan’s opening at a hearing of the Select Subcommittee on the Weaponization of the Federal Government on March 7, 2024, regarding “financial surveillance of behavior that is legal and constitutional” by “Big Government,” Chairman Comer’s use of congressional subpoenas to seek the personal financial and phone records of private citizens has highlighted the dangers of weaponizing Congress to: “spy on everything Americans buy, every place they go, everything they do.”¹⁸

¹⁴ *E.g.*, Letter from Ranking Member Jamie Raskin, Committee on Oversight and Accountability, to Chairman James Comer, Committee on Oversight and Accountability (Aug. 31, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2023-08-31.JBR%20to%20Comer%20re%20Kushner%20Subpoena.pdf>); *Before Giving Billions to Jared Kushner, Saudi Investment Fund Had Big Doubts*, New York Times (Apr. 10, 2022) (online at www.nytimes.com/2022/04/10/us/jared-kushner-saudi-investment-fund.html).

¹⁵ *‘What Did the President Do Wrong?’: Tapper Presses Republican Probing Biden*, CNN (Aug. 11, 2023) (online at www.cnn.com/videos/politics/2023/08/11/james-comer-house-oversight-committee-biden-tapper-lead-vpx.cnn).

¹⁶ *E.g.*, Letter from Ranking Member Jamie Raskin, Committee on Oversight and Accountability, to Chairman James Comer, Committee on Oversight and Accountability (Jan. 26, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2024-01-26.Raskin%20to%20Comer%20re%20Seeking%20New%20Mazars%20Subpoena.pdf>); Committee on Oversight and Accountability, Democratic Staff Report, *White House for Sale: How Princes, Prime Ministers, and Premiers Paid Off President Trump* (Jan. 4, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversighthouse.gov/files/2024-01-04.COA%20DEMS%20%20Mazars%20Report.pdf>).

¹⁷ *‘This Week’ Transcript 2-12-23: Sen. Chuck Schumer, Rep. James Comer & Rep. Pete Aguilar*, ABC News (Feb. 13, 2023) (online at <https://abcnews.go.com/Politics/week-transcript-2-12-23-sen-chuckschumer/story?id=97057961>).

¹⁸ Select Subcommittee on the Weaponization of the Federal Government, Chairman Jim Jordan (@Weaponization), X (Mar. 7, 2024) (online at <https://twitter.com/Weaponization/status/1765761014048428284>).