

EXHIBIT 8



U.S. Department of Justice

Office of the Solicitor General

Executive Officer

Washington, D.C. 20532

VIA U.S. MAIL and VIA EMAIL to <oversightproject@heritage.org>

Mike Howell
The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002

Re: OSG FOIA No. **2023-128095**

Dear Mr. Howell:

This letter responds to your Freedom of Information Act (FOIA) request to the Office of the Solicitor General (OSG), dated August 15, 2023, in which you requested the following:

All records relied upon by Attorney General Merrick B. Garland in the following public statements:

o “So, I am not going to comment about this investigation, but as everyone knows there is an investigation going on in Delaware by the U.S. Attorney who was appointed by the previous Administration. I can’t comment on it any further than that.” *Oversight of the United States Department of Justice: Hearing Before the H. Comm. on the Judiciary*, 117th Cong., 206 (Oct. 21, 2021).1.

o “So the Hunter Biden investigation, as I said even in my own nomination confirmation hearing, is being run by and supervised by the United States Attorney for the District of Delaware.” *A Review of the President’s Fiscal Year 2023 Funding Request for the U.S. Department of Justice: Hearing before the S. Comm. on Appropriations, Subcomm. On Justice, Science, and Related Agencies*, 117th Cong., CQ Trans. at *16–18 (Apr. 26, 2022).2.

o “He [U.S. Attorney Weiss] is supervising the investigation. And I’m, you know, I’m not at liberty to talk about internal Justice Department

deliberations, but he is in charge of that investigation. There will not be interference of any political or improper kind.” *Id.* at *16.

o “Again, he [U.S. Attorney Weiss] is the supervisor of this investigation and, you know, the normal processes of the department occur. But he is the supervisor of this investigation.” *Id.* at *16.

o “Because we put the investigation in the hands of a Trump appointee from the previous Administration who’s the United States Attorney for the District of Delaware. And because you have me as the Attorney General, who is committed to the independence of the Justice Department from any influence from the White House in criminal matters. *Id.* at *17.

o “Senator, following the longstanding rule of the Justice Department we don’t discuss investigations or evidence that maybe—may or may not be relevant to investigations That’s a matter for the United States Attorney’s office that’s investigating the case.” *Id.* at *18.

o So, as the committee well knows from my confirmation hearing, I promise to leave—I promised to leave the matter of Hunter Biden in the hands of the US attorney for the District of Delaware, who was appointed in the previous administration. So, any information like that should have gone or should—or should have gone to that US attorney’s offices and the FBI squad that’s working with him. I have pledged not to interfere with that investigation, and I have carried through on my pledge.” *Oversight of the Department of Justice: Hearing Before the Sen. Comm. on the Judiciary, 118th Cong., CQ Trans. at *30–33 (Mar. 1, 2023).*³ .

o “The—the US attorney in Delaware has been advised that he has full authority to—to make those kind of referrals that you’re talking about, or to bring cases in other jurisdictions if he feels it’s necessary. And I will assure that, if he does, he will be able to do that.” *Id.* at *31.

o “He [U.S. Attorney Weiss] would have to bring—if it’s in another district, he would have to bring the case in another district. But as I said, I promise to ensure that he’s able to carry out his investigation and that he be able to run it. And if he needs to bring it in another jurisdiction, he will have full authority to do that.” *Id.* at *31.

o “Well, it’s a kind of a complicated question. If it—under the regulations, that kind of act, he [U.S. Attorney Weiss] would have to bring to me under—to the Attorney General. Under the regulations, those kind of

charging decisions would have to be brought. I would then have to, you know, authorize it and permit it to be brought in another jurisdiction. And that is exactly what I promised to do here already, that if he needs to do—bring a case in another jurisdiction, he will have my full authority to do that.” *Id.* at *31–32.

o “So, I—I don’t know the answer to that. I do—and I don’t want to get into the internal elements of decision making by the US attorney. But he [U.S. Attorney Weiss] has been advised that he is not to be denied anything that he needs. And if that were to happen, it should ascend through the department’s ranks. And I have not heard anything from that office to suggest that they’re not able to do everything that the US attorney wants to do.” *Id.* at *32.

o “I can’t comment about the investigation, other than to say that all the matters involving Mr. Hunter Biden are the purview of the US attorney in Delaware. He’s not restricted in his investigation in any way.” *Id.* at *138.

o “Yes, it’s still the case that I stand by my testimony, and I refer you to the U.S. attorney for the District of Delaware who is in charge of this case and capable of making any decisions that he feels are appropriate.”⁴

o “As I said at the outset, Mr. Weiss, who was appointed by President Trump as the US attorney in Delaware and assigned this matter during the previous administration would be permitted to continue his investigation and to make a decision to prosecute anyway in which he wanted to and in any district in which he wanted to. Mr. Weiss has since sent a letter to the House Judiciary Committee confirming that he had that authority. I don’t know how it would be possible for anybody to block him from bringing a prosecution, given that he has this authority.”⁵

o “I say, [U.S. Attorney Weiss] was given complete authority to make all decisions on his own. *Id.* at *18.

o “The only person with authority to make somebody a special counsel or refuse to make somebody a special counsel is the attorney general. Mr. Weiss never made that request to me. *Id.*

o “Mr. Weiss had in fact more authority than a special counsel would have had. He had and has complete authority, as I said, to bring a case anywhere he wants in his discretion. *Id.* at *19.

Under the Freedom of Information Act, an individual is entitled to receive access to certain materials in identifiable agency records. OSG maintains primary pertinent records on current or recent past United States Supreme Court cases in which the federal government has participated. We also maintain records on adverse decisions submitted for the Solicitor General's decision regarding whether to seek further judicial review.

Based on the information provided in your request, there were no pertinent records found in a search for responsive records.

If you wish to discuss any aspect of your request, you may contact our FOIA Coordinator at osgfoia@usdoj.gov or at 202-514-2203, using the assigned FOIA tracking number. You may also write to OSG at:

OSG FOIA Public Liaison
Office of the Solicitor General
950 Pennsylvania Avenue, N.W
Washington, DC 20530-0009

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001

Email: ogis@nara.gov
Telephone: 202-741-5770; toll free at 1-877-684-6448
Facsimile: 202-741-5769

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIA online portal by creating an account on the following web site:

<https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Valerie Yancey

VY/bt