

**THE POLITICAL PROSECUTIONS  
OF HUNTER BIDEN**

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# **EXECUTIVE SUMMARY**

# **THE POLITICAL PROSECUTIONS OF HUNTER BIDEN**

## ***EXECUTIVE SUMMARY***

The political persecution of Hunter Biden marks an extraordinary chapter of American history in which a sitting president, and those working at his behest, weaponized the Executive Branch to pursue political vendettas and enlisted his political party to systematically and relentlessly target a private citizen through corrupt schemes based on lies, Russian disinformation, compromised FBI informants, biased and disgruntled IRS agents, and stolen data.

The federal investigation into Hunter was initiated by former president, and now president-elect Donald Trump as a campaign tactic to undermine his political opponent, with Rudy Giuliani playing a central role in spreading disinformation about Hunter's dealings in Ukraine and conspiring with (and paying) questionable sources to generate false narratives, which were later used to fuel attacks by Trump allies. MAGA-inspired congressional Republicans relied on these lies to launch sham investigations into Hunter and his family, which produced no significant findings and zero evidence of criminal wrongdoing. And throughout this years-long campaign, Republican lawmakers and the former president consistently and inappropriately tried to influence the federal criminal investigation of Hunter, including successfully interfering in a proposed resolution of that case in 2023, which ultimately led to Hunter being charged with 12 criminal counts in two different prosecutions.

Put simply, Hunter was a surrogate to attack and injure his father, both as a candidate in 2020 and later as President. Hunter posed no threat to public safety nor worked in his father's administration. There were no victims in the gun or tax crimes he was accused of committing. Owning a handgun for 11 days that was never loaded nor used, and a late filing and payment of taxes, should not have been the foundation to punish Hunter for no more than being a "Biden." But to the pleasure of President Trump and MAGA allies everywhere, that is exactly what happened.

The anomalies surrounding the improper and unprecedented nature of the investigations and prosecutions of Hunter have been chronicled over the years, but never analyzed conclusively in one place. The accompanying white paper sets out the definitive sequence of events that led to Hunter Biden being used as a political tool to influence the 2020, 2022, and 2024 elections.

### **I. DISINFORMATION AND DOJ'S INVESTIGATION OF HUNTER BIDEN**

As a means to make Hunter the surrogate to influence the 2020, 2022, and 2024 elections, Donald Trump (as both candidate and President) endlessly called on the Department of Justice ("DOJ"), the media, Congress, and even foreign governments to investigate Hunter Biden. For Trump, causing harm to Hunter was a campaign strategy to defeat his father. At 2020 election rallies, President Trump encouraged his audience to chant, "Lock him up!" in reference to Hunter. After he lost the 2020 election, Trump tweeted a quote that "10% of voters would have changed their vote if they knew about Hunter Biden." And in his speech inciting the crowd that breached the Capitol on January 6, 2021, President Trump egged them on with his favorite refrain, "Where's Hunter?" It continued through the 2024 election cycle, becoming a familiar catchphrase on right-wing media outlets and podcast shows. Even a few weeks before the 2024 election, Trump

repeated the false and debunked claim that Hunter received \$3.5 million from the Moscow mayor's wife.

### ***A. Russian Disinformation***

President Trump's 2020 campaign chants were just one component of a long-running, more coordinated effort to investigate, smear, and dig up dirt on Hunter, and to tie it to his father. Beginning as early as March 2017, Alexander Smirnov—then a long-time confidential FBI informant and later a purveyor of the made-up tales about a baseless “Biden bribery scheme”—provided false information to the FBI mischaracterizing Hunter's involvement with Ukrainian natural gas company Burisma Holdings, and an alleged Burisma bribery scheme. This misinformation was memorialized in a government interview memorandum, the FD-1023 (“2017 Smirnov 1023”). The 2017 Smirnov 1023 later served as the initial basis for Republicans in Congress to baselessly claim on Fox News and elsewhere that Hunter and his father were involved in a bribery operation stemming from Hunter's time as a Board member with Burisma.

During this same period, Lev Parnas, an associate of President Trump's personal lawyer Rudy Giuliani, with his own deep connections to Ukraine and Russian oligarchs, was sent on a political mission around the globe in pursuit of finding “dirt” on the Bidens—an effort directed and paid for by Giuliani. For nearly a year, Parnas and his partner Igor Fruman chased baseless conspiracy theories about Hunter and stolen data from a purported “Hunter Biden Laptop” in order to generate any evidence for Giuliani and Trump of a “Biden bribery scheme.” In late 2018, Parnas attended a White House holiday party with Giuliani where President Trump told Parnas: “I spoke with Giuliani, he tells me you are doing good things. Keep it up. I wish you well on your trip [to come up with dirt in Ukraine].” The episode, later described by Parnas in congressional testimony and a documentary, further confirmed that President Trump was familiar with Giuliani's directive and Parnas's efforts to dig up “dirt” on the Bidens.

As part of this globetrotting effort, in early January 2019, Parnas arranged for Giuliani to speak by phone with Viktor Shokin, the former prosecutor general of Ukraine, to discuss “allegations” (later debunked) of misconduct and financial impropriety involving Hunter and his family. That same month, Giuliani and Parnas met with then Ukrainian prosecutor general Yuriy Lutsenko at his office in New York, where Lutsenko suggested that if DOJ launched an investigation into Hunter in the United States, the prosecutor general's office would share relevant information to aid in the Bidens' demise. Lutsenko even suggested to Giuliani that U.S. authorities interview Hunter and his then business partner and ask, “Did they pay taxes in America?”

### ***B. DOJ Tax Investigation and FBI Briefings***

And so, in January 2019, just as suggested in Giuliani's call with Lutsenko, prosecutors in Delaware (under Trump-appointed U.S. Attorney David Weiss) opened a federal investigation into possible tax violations by Biden based on bank records they obtained. Separate from the Delaware investigation, two months earlier in November 2018, IRS Criminal Investigation Special Agent Joseph Ziegler began looking into Hunter's financial records in connection with another tax case he was working at the time. Sometime in early 2019, those two investigations merged to become the full-fledged tax investigation of Hunter under U.S. Attorney Weiss in Delaware.

At the same time, as part of a Russian disinformation campaign against the Bidens, FBI informants were pursuing their own agendas against Hunter. In January 2019, an FBI informant and former Russian KGB agent—code name “Rollie”—briefed DOJ officials in Los Angeles, which included a slideshow presentation accusing Biden and his associates of engaging in money laundering, tax evasion, and fraud. In March 2019, Trump–Giuliani media ally John Solomon obtained 261 pages of Hunter’s bank records from an FBI source, which he claimed showed “evidence of classic looting.” An informal group of Trump loyalists self-titled “the BLT Team”—which included Giuliani, Parnas, Solomon, GOP Rep. Devin Nunes, and well-known Republican attorneys Joe DiGenova and Victoria Toensing—met often that summer to discuss how they (and associates both domestically and in Ukraine) could exploit baseless claims about the Hunter Biden story to boost President Trump’s election prospects and damage candidate Joe Biden.

### *C. Congressional Efforts*

Republicans in Congress, meanwhile, were stepping up their role to investigate Hunter before the 2020 election. In November 2019, Republican Chairmen Chuck Grassley and Ron Johnson (Senate Committee on Homeland Security and Governmental Affairs, and Committee on Finance, respectively) undertook an investigation into potential conflicts of interest due to Hunter’s position on the board of Burisma Holdings, a Ukrainian natural gas company, while his father was the “public face” of the administration’s handling of Ukraine as Vice President. That investigation ultimately produced an 87-page report in September 2020, two months before the election, titled “Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns,” which served as another tool to support President Trump’s 2020 election bid. Also in the fall of 2019, State Department Inspector General Steve Linick provided Congress with a dossier of disinformation documents given to Secretary of State Mike Pompeo by Giuliani himself, which contained baseless claims about Hunter and Joe Biden. Linick later briefed members in an urgent session to discuss the material.

For their part, House Republican Chairmen Jim Comer and Jim Jordan proclaimed they had a secret “informant” who had evidence that Hunter and Joe Biden were involved in a foreign corruption scheme with CEFC China Energy, and its officials Patrick Ho and Ye Jiaming. As it turns out, the conspiracy-laden tale—peddled by Comer, Jordan, and other House Republicans—was demonstrably false, and in July 2023, the “informant,” Gal Luft, was arrested and indicted on federal charges, including acting as an unregistered foreign agent for the Chinese government. This was just one of the “very credible” informants whom these GOP chairmen had relied upon and whom they used to initiate investigations of Hunter.

In December 2019, Giuliani personally traveled to Ukraine, in search of dirt on the Bidens, to meet with Ukrainian counterparts and former Russian organized-crime members, who gave Giuliani material they claimed showed wrongdoing by Hunter and others. As Parnas later put it, “everyone, from Giuliani and the BLT Team to Devin Nunes and his colleagues, to the people at Fox News, knew that these allegations against the Bidens were false. There has never been any factual evidence, only conspiracy theories.” Trump, Giuliani, and others working at their direction used this material and disinformation to sponsor and further U.S. investigations of Hunter Biden.

Back at home, in February 2020, Attorney General Bill Barr confirmed that DOJ (via U.S. Attorney for the Western District of Pennsylvania Scott Brady) had established a process to receive

and vet information concerning Hunter and Ukraine, including that coming from Giuliani or former FBI informant Alexander Smirnov. By September 2020, Brady submitted a final report to DOJ about his investigation—and sent it to prosecutors in New York and Delaware—that rejected the disinformation coming from Ukraine and Giuliani. Despite other U.S. Attorney’s offices discounting Smirnov’s wild accusations in the FD-1023 and closing their inquiries because of his unsubstantiated allegations, certain contingencies at DOJ continued to pursue the claims. In Delaware, DOJ’s investigation of Hunter continued undeterred, and prosecutors and IRS agents pressed forward, dragging out the investigation for another three years into 2023, which ultimately allowed politics to influence decision making.

## **II. POLITICAL PRESSURE THWARTS A NEGOTIATED RESOLUTION TO END THE INVESTIGATIONS OF HUNTER BIDEN**

After a thorough, painstaking five-year investigation by career prosecutors in Delaware under Trump-appointed U.S. Attorney Weiss, which included five presentations by Hunter’s counsel to prosecutors and DOJ Tax Division’s pointing out long-standing DOJ policies that would not support any criminal charges against Hunter, prosecutors concluded that the allegations and evidence merited a non-prosecution agreement (NPA). After initial discussions with Hunter’s counsel, during which the U.S. Attorney’s Office indicated its willingness for an NPA to resolve all investigations of Hunter, U.S. Attorney Weiss backtracked and changed his position to instead require a deferred-prosecution agreement on the charge related to Hunter’s possession of a firearm. After exchanging draft agreements based on a framework proposed by the U.S. Attorney’s Office, Weiss changed his mind for a third time in eight days, rejecting any deal without some guilty plea by Hunter. According to his career prosecutors in charge, U.S. Attorney Weiss now required that a resolution include pleas to two failure-to-file misdemeanors (with a recommendation for probation) but would still include a diversion agreement to address Hunter’s brief 11-day possession of a handgun that was never loaded, nor used, and never taken out in public by Hunter. Hunter agreed to go forward with a new agreement on these terms, subject to the U.S. Attorney’s Office not changing the basic terms again.

A critical and meticulously negotiated clause of the Diversion Agreement included an immunity provision for Hunter whereby the United States agreed “not to criminally prosecute Biden, outside of the terms of this Agreement, for any federal crimes encompassed by the attached Statement of Facts.” A copy of the Diversion Agreement was submitted to the court in Delaware on June 8, 2023—constituting a final resolution of the investigation by DOJ. A press statement prepared by Hunter’s counsel and approved by the First Assistant U.S. Attorney on June 19 (with final language as the First Assistant requested) read, in part, “With the announcement of two agreements between my client, Hunter Biden, and the United States Attorney’s Office for the District of Delaware, it is my understanding that the five-year investigation into Hunter is resolved.” On June 20, prosecutors, as part of an agreed-upon resolution, filed two informations with the court—a felony firearm information and misdemeanor tax information (the Diversion Agreement and Plea Agreement were not filed then).

A week before Hunter’s scheduled initial appearance on July 26, 2023, the District’s Chief U.S. Probation Officer formally approved the Diversion Agreement and issued her pretrial-diversion report, which included Probation’s approval of diversion related to the firearm charge and recommended a 24-month term of pretrial diversion. An assistant U.S. attorney emailed the



final agreed-to copy to Judge Maryellen Noreika's chambers on July 20, writing, "The parties and Probation have agreed to revisions to the diversion agreement to more closely match the conditions of pretrial release that Probation recommended in the pretrial services report issued yesterday." The Diversion Agreement sent to the court on July 20 reflected the final agreement of the "parties and Probation," which followed Probation's approval of a 24-month pretrial diversion and was the exact same version that Assistant U.S. Attorney Leo Wise, Hunter Biden, and Hunter's attorney signed in court on July 26, 2023.

Between the time prosecutors filed a letter on June 20 describing the deal's structure and the hearing on July 26, Republican political backlash directed at U.S. Attorney Weiss was immediate and forceful. That effort ended up achieving its goal of having the resolution scuttled. The former president posted repeatedly online about Weiss's resolution with Hunter, decrying it as a "traffic ticket" and a "sweetheart deal," and Trump even chided Weiss directly: "Weiss is a COWARD, a smaller version of Bill Barr, who never had the courage to do what everyone knows should have been done. He gave out a traffic ticket instead of a death sentence." At political rallies, Trump swore "retribution" on his political rivals and the agencies he blamed for helping them. He promised he would "defund the DOJ and FBI" until "they come to their senses" and appoint a "real special 'prosecutor'" to "go after" the Bidens. In short order, House members fell in line and publicly denounced the deal as a "slap on the wrist."

The public outcry and political backlash had outsized personal consequences for Hunter and his family. Fueling the political pressure beginning in April 2023—as the U.S. Attorney's Office was negotiating and preparing to offer Hunter a plea deal—were two IRS case agents who had worked the Biden investigation for years and who began going public in May, including their testimony before Congress in June 2023 about what they claimed was DOJ's alleged interference and intervention in the investigation to protect Joe Biden's son. Then, in a bald-faced attempt to interfere in the judicial proceedings, Republicans called a full House Oversight hearing on July 19, 2023—just days before Hunter's scheduled plea hearing—to hear from the two IRS agents, Special Agent Joseph Ziegler and Supervisory Special Agent Gary Shapley, who testified publicly about their work on the Biden case and alleged DOJ's repeated interference. Simultaneously, in an unprecedented move, these agents claimed "whistleblower" status and provided their investigative case files to the House Ways and Means Committee, which voted along party lines to publicly release that material (nearly 700 pages of confidential IRS documents, emails, letters, and other case files), which included confidential taxpayer information and grand jury materials. And finally, just one day before the scheduled Delaware hearing to accept the plea resolution proposed by prosecutors that would have resolved all DOJ investigations of Hunter for good, GOP Ways and Means Committee Chair Jason Smith intervened in the judicial process of Hunter's plea and filed a brief attaching the congressional interview transcripts from Agents Shapley and Ziegler.

More than anything else, the actions of MAGA-crazed Republicans on Capitol Hill in the days before the hearing, and in filing papers on the criminal docket in Delaware, made national headlines and intensified political pressure on DOJ to bring stiffer charges against Hunter. At the court hearing to go over the agreements on July 26, 2023, the court raised questions about the Plea Agreement, and then deferred a decision on the plea until further briefing from the parties. However, the U.S. Attorney's Office—following the relentless criticism and attacks by Trump and his partisan allies—did not take long to jettison the deal that it had struck and that had subjected prosecutors in Delaware to political condemnation. The court, while raising questions concerning

the procedure in the agreement for alleging breach and the scope of the immunity provision, stated that the resolution could go forward with clarifications and never stated that the deal would be unfair without more-serious charges being levied against Biden.

Following the public hearing, Hunter's attorneys attempted to address the Delaware judge's questions and restore the terms of a resolution, but U.S. Attorney Weiss abruptly and without explanation directed his colleagues to propose new, far-different terms from the ones he had approved before the political pressure mounted. There was no new evidence presented, as the conduct at issue had occurred many years prior. There were no new allegations against Hunter. Apparently unable to withstand the public scrutiny leveled against him by Republicans, U.S. Attorney Weiss just abandoned the deal he had forged and, at times, personally negotiated and on August 11, requested and was granted Special Counsel status by Attorney General Garland—more than five years after he began the investigation and after concluding that the proper resolution was a plea agreement to two failure-to-file misdemeanor charges and a diverted gun charge. This appointment was made despite earlier statements by both men that the U.S. Attorney had all the authority he needed to bring any merited charges anywhere they needed to be brought. Oddly, in selecting U.S. Attorney Weiss for the role of Special Counsel, Garland ignored a key provision in the very DOJ regulations for such positions that requires a special counsel to be an independent attorney, selected from *outside* the U.S. government, let alone outside the very agency the Attorney General leads—just one in a litany of irregularities in the handling of the cases against Hunter.

What followed are the well-documented and highly politicized prosecutions of Hunter Biden: a September 14, 2023, indictment on three felony gun charges in the District of Delaware, and a December 7, 2023, indictment on nine tax charges in the Central District of California—three felony tax offenses and six misdemeanor tax offenses, ranging from 2016 to 2019. The once-promised (and signed) agreement to divert the firearm offense and have Hunter plead guilty to two failure-to-file misdemeanors was forever gone and thrown away, replaced by felony charges from the newly appointed Special Counsel's office.

### **III. UNPRECEDENTED CHARGES AGAINST HUNTER BIDEN**

The three felony firearm charges against Biden, which ended in a June 2024 conviction, are unprecedented in the District of Delaware on both the facts and the law.

These charges were based on Hunter's 11-day ownership of a handgun he bought on a whim, which was never loaded nor used, not used in any crime, and taken and thrown out by someone other than Hunter and recovered days later. DOJ's record for when federal prosecutors have brought charges based on a person with substance abuse possessing a gun or a person misstating an answer on the federal form (Form 4473) involved cases only with aggravating facts—the purchaser's having a criminal record, a person's buying multiple weapons, a person's being a straw purchaser, the gun being used in a crime, or some other similar factor. *None* of these factors existed with Hunter. In fact, absent aggravating circumstances, the statistics prove that no one has *ever* been charged in Delaware with violating § 922(g)(3) solely for having possessed a firearm while the individual either (i) was addicted to a controlled substance or (ii) was otherwise an unlawful user of a controlled substance.

On top of the unprecedented felony charges against Hunter, law enforcement officials and prosecutors ignored a plethora of unrelated misconduct by others involved in this situation. The individual who took and threw away the gun was given immunity for that reckless conduct so long as she testified about Hunter's drug use; the man who fished the gun out of the trash and took it home, where he had another gun he said he was holding for someone "in trouble," was ignored; the shop owner from whom Hunter purchased the gun and who doctored the federal firearms form about the purchase (and later submitted it to ATF) was given a pass; and the Delaware state trooper who colluded with the shop owner to leak the doctored form to make it a 2020 campaign issue was also left alone. And yet three felony counts were brought against Hunter, despite the fact that law enforcement authorities in 2018 called Hunter the "victim" of a crime and declined to pursue any charges then.

Notable among the anomalies and misconduct that went unaddressed by prosecutors, when the government produced discovery to Hunter as part of the Delaware trial, the Special Counsel produced *two* different versions of the federal gun form Hunter signed in October 2018—one that contained one version of identification (Hunter's U.S. passport) and a second, different version that contained two forms of identification (the passport and a supplemental form of identification allegedly provided: a Delaware "vehicle registration" at line 18.b). As discovery would show, the ATF form that was the basis for two of the charges against Hunter had been altered after the fact by the gun shop owner who sold him the revolver, and the Special Counsel succeeded in keeping this fact from the jury in Hunter's trial.

Like the firearm charges, the tax charges brought by the Special Counsel in California in December 2023—to which Hunter pleaded guilty in September 2024 to spare his family the trauma of a trial—are similarly unprecedented for their scope and factual basis, especially when considering that Hunter fully paid his past-due taxes with interest and penalties in 2021. The tax charges resulted from Hunter's late filing and payment of taxes at a time when he was using and seriously addicted to drugs and alcohol. The charges were brought four years after Hunter became clean and sober and more than two years after Hunter fully paid any taxes owed with interest and penalties. And in the year prosecutors alleged tax evasion (2018), Hunter actually *overpaid* his taxes. Other people (including allies of Donald Trump) with far-more-serious tax offenses were allowed to resolve their cases with civil penalties or misdemeanors. Hunter was not given that option, nor afforded any of the amnesty protections that IRS gave American taxpayers during and after the COVID-19 pandemic, and in 2024, he decided to plead guilty to all nine counts to save his family from the pain, embarrassment, and humiliation of another trial where they were to be called as witnesses. The Special Counsel prosecutors never offered Hunter a meaningful plea deal to end this case but did give his former tax preparers at Edward White & Company, who made various mistakes, complete immunity from criminal liability.

Neither of these indictments—with the facts and circumstances that made them outliers—was filed until the improper interference by Trump and Republican allies, who sought to have the Republican-appointed prosecutor cave to do their bidding. In fact, after the Delaware conviction, that prosecutor, David Weiss, trumpeted that "no one is above the law" but that Hunter should "not be held more accountable than anyone else." Yet his actions undercut his own pronouncement. He has treated Hunter more harshly than others with more serious misconduct and has never been required to explain how he went from agreeing to a non-prosecution agreement to 12 criminal

counts against Hunter in two different states. The additional prosecutorial errors, misconduct, improper searches, and blatant overreach are discussed in more detail in the white paper.

#### **IV. THE LASTING IMPACT AND ENDURING CONSEQUENCES OF THE POLITICAL PERSECUTIONS OF HUNTER BIDEN**

The impact that the extraordinary and improper events described have had on Hunter and his family is obvious. However, the effect that partisan politics can have on what is supposed to be an independent prosecutorial decision-making process extends beyond Hunter's case. Politics' outsize role reveals a new page in the playbook of politicizing investigations and prosecutions. This has been one of the most notorious and consequential political prosecutions in American history. The investigation included a directive from President Trump (in his first term) to look into Hunter, and his repeated involvement in how the investigation was conducted; investigative leads fueled from now-debunked Russian disinformation provided by an indicted Russian informant; blatant partisan interference by a political party in Congress to create an oversight inquiry and kill an NPA negotiated and recommended by career prosecutors; the improper appointment of and spending by a Special Counsel selected from *within* DOJ's ranks, who then brought unprecedented misdemeanor and felony charges in two districts far exceeding typical DOJ policy and precedent; numerous highly unusual procedures like prosecutors' defending their actions by claiming "overwhelming" evidence that they did not acquire until *after* the charges were filed; and, to date, the failure of courts in those jurisdictions (at both the district and the appellate level) to follow precedents in addressing the charges brought against Hunter.

This paper and accompanying timeline detail how a system that is supposed to protect against abuses failed to do so and was corrupted by political leaders in this country. As a result, Hunter faces significant sentences for felonies and misdemeanors far beyond precedents of others committing less serious offenses or where civil resolutions or consent judgments are normally sought—all on the basis of his mistakes, made while in the throes of serious drug addiction. There was nothing factually "willful" about his conduct; the individuals who engaged in far-more-serious misconduct relating to Hunter's purchase and brief possession of a handgun have been given a pass; nothing about Hunter's conduct (either his owning a firearm or his personal struggle with addiction) was "dangerous" or detrimental to the public; and Hunter fully paid his taxes with interest and penalties years ago. Despite individuals like Lev Parnas coming forward and testifying publicly that there was not, and has never been, a single shred of evidence to support the made-up conspiracies of Joe and Hunter Biden's corruption in Ukraine, it has not stopped the MAGA-obsessed and Trump-fueled operation against Hunter and his family.

Despite all that has transpired—between a five-year federal investigation, an impeachment inquiry centered on Hunter's foreign business dealings, countless hours of testimony by IRS agents who had their entire files dumped publicly, numerous congressional investigations in both the House and the Senate, and now two unprecedented indictments and prosecutions—numerous questions remain that have never been, and may never be, answered:

- (i) Why did U.S. Attorney Weiss suddenly renege on a plea agreement and diverted gun charge with no new evidence and no change in the facts or law?
- (ii) Why did Republicans get away with launching a baseless impeachment investigation without finding a shred of evidence of wrongdoing?

- (iii) Why were others who engaged in conduct with Hunter (business partners, tax preparers, gun salesmen) treated differently or given a pass when Hunter was charged criminally?
- (iv) Why was Hunter charged with three tax felonies and six tax misdemeanors when other taxpayers who committed similar or worse conduct received plea deals, civil resolutions, or less severe penalties?
- (v) Why was U.S. Attorney Weiss never asked to explain what changed that led to his seeking Special Counsel status and bringing unprecedented felony charges against Hunter after he and Attorney General Garland declared he had all the authority he needed?
- (vi) Why were IRS agents who worked on the investigation permitted to go on a public media campaign in 2023 and 2024?
- (vii) Why were Republicans not chastised for relying on confidential “informants” turned federally indicted criminals?

Simply put: Where is the public accountability for the political persecutions of Hunter Biden?

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# **WHITE PAPER REPORT**

## THE POLITICAL PROSECUTIONS OF HUNTER BIDEN

### I. INTRODUCTION

After a five-year investigation prompted and influenced by political pressure from President Donald Trump and those acting on his behalf, and then after that same improper political influence resulted in the abandonment of a non-prosecution resolution of the investigation by a Trump-appointed, holdover U.S. Attorney in Delaware, Hunter Biden was charged in two cases with criminal offenses that no one without the name “Biden” would have faced.

The Delaware prosecution was based on Hunter’s 11-day ownership of a handgun he bought on a whim, never loaded nor used, and was taken and thrown out by someone other than Hunter and recovered days later. That individual was given immunity for that reckless conduct; the man who fished the gun out of the trash and took it home, where he had another gun he said he was holding for someone “in trouble,” was ignored; the gun shop owner where Hunter bought the gun and who doctored the federal form submitted to the ATF about the purchase was given a pass; and the Delaware state trooper who colluded with the shop owner to leak the doctored form in an attempt to influence the 2020 election was also left alone. And yet three felony counts were brought against Hunter for which he was convicted in June 2024.

The charges in California resulted from Hunter’s late filing and payment of taxes at a time when he was using and seriously addicted to drugs and alcohol. The case was brought four years after Hunter became clean and sober and more than two years after Hunter *fully paid any taxes owed with interest and penalties*. And in the year (2018) prosecutors alleged tax evasion, Hunter actually *overpaid* his taxes. Other people (including allies of Donald Trump) with far-more-serious tax offenses were allowed to resolve their cases with civil penalties or misdemeanors. Other taxpayers were given leniency during the Covid-19 pandemic to pay back taxes, or afforded other IRS amnesty programs to account for financial hardships. Hunter was given neither option and decided to plead guilty to all nine counts to save his family from the pain, embarrassment, and humiliation of another trial where they were to be called as witnesses. The Special Counsel prosecutors even gave Hunter’s tax preparers at Edward White & Company, who made various mistakes, complete immunity.

Neither of these cases—with those facts and circumstances—was filed until the improper interference of Trump-inspired Republicans and their right-wing media machine dogged the Republican-appointed prosecutor to cave and do their bidding. In fact, after the Delaware conviction, that prosecutor, David Weiss, trumpeted that “no one is above the law” but that Hunter Biden should “not be held more accountable than anyone else.” Ironically and unfortunately, his actions undercut his own pronouncement. He has treated Hunter far more harshly than others with more serious misconduct and has never had to explain how he went from proposing a non-prosecution agreement to abruptly shifting course to filing 12 criminal counts against Hunter in two different states.

In fact, despite the filing of the two cases against Hunter and the subsequent convictions, the very same Trump-aligned Republicans in Congress and in the media are still calling for Hunter to be further prosecuted on baseless right-wing conspiracy allegations. As Trump himself pledged

during the 2024 campaign, he would go after his enemies if he were to win a second term. He has won and made clear during his campaign that he would seek revenge to go after Hunter and others in the Biden family as well as prosecutors who would not do as he demands. During the Democratic National Convention in August 2024, Trump posted, “WHERE’S HUNTER?” At his debate with Vice President Harris on September 10, 2024, Trump again invoked Hunter as an issue. And just weeks before the election, he again falsely claimed that Hunter received \$3.5 million from the spouse of Moscow’s former mayor, a Republican claim that was debunked years ago. Because MAGA Republicans were successful in the result they sought—specifically, Mr. Weiss abandoning a case resolution negotiated and recommended by career prosecutors in his U.S. Attorney’s Office—and because he then requested to be appointed as a “special counsel,” Mr. Weiss can remain in power now that Trump has been elected again. Worse, Mr. Weiss can again be pressured to carry out the new demands of Donald Trump, a radical Attorney General (the proposed nominee being someone who called for Hunter’s prosecution), and others in his political party or administration.

Hunter was the target of President Trump and Republican chairmen in Congress, who succeeded in initiating this investigation, becoming investigators for prosecutors, and then scuttling a deal that resulted in unprecedented charges filed against him, simply because he was a surrogate to attack and injure President Biden. Eleven days owning a gun that was never taken out, loaded, or used, and late payment of taxes like millions of other Americans, should not have been used to punish Hunter for no more than being a “Biden.” However, this is exactly what has happened.

This paper (and its summary and timeline) sets out in detail how Hunter became the target of investigations to influence the 2020, 2022, and 2024 elections. Finding nothing to use against President Biden, Donald Trump and those acting on his behalf manufactured false corruption allegations based on Russian disinformation and debunked bribery claims from compromised confidential informants, and orchestrated an unprecedented effort to go after Hunter who has never held public office, never worked in nor did any business with this administration, and whose only offense was to be the President’s son, and, who, like millions of other Americans, made terrible mistakes while suffering from a devastating addiction to drugs and alcohol. When partisan politics succeeded in instigating investigations, congressional proceedings, and unprecedented criminal charges, the system failed to address, correct, or mitigate the damage, with courts making ruling after ruling that treated Hunter differently from others similarly situated.<sup>1</sup>

## **II. DONALD TRUMP AND THOSE ACTING ON HIS BEHALF CAUSED THE INVESTIGATIONS OF AND CASES AGAINST HUNTER BIDEN**

As candidate and then President, Donald Trump repeatedly called in demagogic fashion on the Department of Justice (“DOJ”), the media, Congress, and even foreign governments to investigate Hunter Biden. For Trump, causing harm to Hunter was a campaign strategy to defeat his father. At 2020 election rallies, President Trump encouraged his audience to chant, “Lock him up!” in reference to Hunter. After he lost the 2020 election, Trump tweeted a quote that “10% of

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<sup>1</sup> Hunter has readily admitted and taken responsibility for the mistakes he made while addicted to drugs. Indeed, he authored a memoir admitting them, titled *Beautiful Things*. He did not seek special treatment to be forgiven for those mistakes, but he should also not be treated any differently from others who have done as much or far worse solely because President Biden’s political enemies have hijacked the system against him.



voters would have changed their vote if they knew about Hunter Biden.”<sup>2</sup> And in his speech inciting the crowd that went on to breach the Capitol on January 6, 2021, President Trump egged them on with the refrain, “Where’s Hunter?” Other postings he made as President include:

- **Sept. 25, 2019:** “I have informed @GOPLeader Kevin McCarthy and all Republicans in the House that I fully support transparency on so-called whistleblower information but also insist on transparency from Joe Biden and his son Hunter, on the millions of dollars that have been quickly and easily[.]”
- **Oct. 6, 2019:** “The Biden family was PAID OFF, pure and simple! The fake news must stop making excuses for something that is totally inexcusable. Sleepy Joe said he never spoke to the Ukrainian company, and then the picture came out where he was playing golf with the company boss and Hunter[.]”
- **Oct. 9, 2019:** “So pathetic to see Sleepy Joe Biden, who with his son, Hunter, and to the detriment of the American Taxpayer, has ripped off at least two countries for millions of dollars, calling for my impeachment - and I did nothing wrong.”
- **Oct. 10, 2019:** “Where is Hunter Biden? He has disappeared while the Fake News protects his Crooked daddy!”
- **Oct. 12, 2019:** “WHERE’S HUNTER?”
- **Oct. 13, 2019:** “Where’s Hunter? He has totally disappeared! Now looks like he has raided and scammed even more countries! Media is AWOL.”
- **Oct. 14, 2019:** “Wow! Hunter Biden is being forced to leave a Chinese Company. Now watch the Fake News wrap their greasy and very protective arms around him. Only softball questions of him please!”
- **Nov. 15, 2019:** “Democrats must apologize to USA: Ukrainian Foreign Minister Vadym Prystaiko said that ‘United States Ambassador Gordon Sondland did NOT link financial military assistance to a request for Ukraine to open up an investigation into former V.P. Joe Biden & his son, Hunter Biden[.]’”
- **Dec. 31, 2019:** “The Democrats will do anything to avoid a trial in the Senate in order to protect Sleepy Joe Biden, and expose the millions and millions of dollars that ‘Where’s’ Hunter, & possibly Joe, were paid by companies and countries for doing NOTHING. Joe wants no part of this mess!
- **Sept. 24, 2020:** “Russian Billionaire wired Hunter Biden 3 1/2 Million Dollars. This on top of all of the other money he received while Joe was V.P. Crooked as can be, but Fake Mainstream Media wants it to just go away!”
- **Oct. 28, 2020:** “Why isn’t Twitter trending Biden corruption? It’s the biggest, and most credible, story anywhere in the world. Fake Trending!!!!”

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<sup>2</sup> @realDonaldTrump, X (Dec. 9, 2020, 8:37 PM), <https://x.com/realdonaldtrump/status/1336847458836631553>; see also Trump Twitter Archive, available at <https://www.thetrumparchive.com/>.

- **Dec. 12, 2020:** “Why didn’t Bill Barr reveal the truth to the public, before the Election, about Hunter Biden. Joe was lying on the debate stage that nothing was wrong, or going on - Press confirmed. Big disadvantage for Republicans at the polls!”
- **Dec. 12, 2020:** “IF Biden gets in, nothing will happen to Hunter or Joe. Barr will do nothing, and the new group of partisan killers coming in will quickly kill it all. Same thing with Durham. We caught them cold, spying, treason & more (the hard part), but ‘Justice’ took too long. Will be DOA!”

After leaving office, the public attacks continued. On **March 31, 2023**, when Trump was notified that criminal charges had been filed against him in Manhattan, he responded by posting on Truth Social, “WHERE’S HUNTER?” On **April 4, 2023**, during an address at Mar-a-Lago after 34 charges against him were unsealed and he was arraigned, Trump’s response was again to make wild allegations against Hunter and his family, claiming Hunter “[j]ust got \$10 million from China.” Then on **June 20, 2023**—the day that Delaware prosecutors and Hunter’s counsel publicly disclosed their plea agreement to resolve the four-year investigation—Trump posted repeatedly on Truth Social and proclaimed: “Wow! The corrupt Biden DOJ just cleared up hundreds of years of criminal liability by giving Hunter Biden a mere ‘traffic ticket.’ Our system is BROKEN!” and later called it a “‘Sweetheart’ Deal for Hunter (and Joe), as they continue their quest to ‘get’ Trump.” A few weeks later, on **July 11, 2023**, Trump went further, calling U.S. Attorney Weiss a “COWARD” for not bringing more-severe charges and calling for Hunter to get “a death sentence.”<sup>3</sup> Trump even called on the presiding judge in Delaware to “break up” the deal (which he called a “cesspool of crime”)—a wish that would later come true.

And during the June 2024 trial in Delaware of firearm possession charges, it was revealed in texts that the very man who owned the store where Hunter purchased the revolver was colluding with people close to Donald Trump Jr., as well as the Delaware state trooper who was part of the 2018 gun investigation, to make Hunter’s gun possession a 2020 campaign issue. As part of that political effort, these individuals went so far as to alter the federal firearms form a gun purchaser fills out that formed the basis of two of the criminal charges against Hunter—a fact that the jury never heard because the judge barred the evidence at trial.

#### **A. 2017–2018: President Trump’s Attorney Rudy Giuliani and His Associate Lev Parnas Used Russian Disinformation to Start and Fuel an Investigation of Hunter Biden**

From the outset, the government’s investigation of Hunter was conceived of and advanced because of blatant partisan politics that served as one vehicle for Russian disinformation to influence the 2020 presidential election and for the purpose of using Hunter to attack and oppose the candidacy of Joe Biden. The disinformation became a centerpiece for Republican House Chairmen James Comer (Oversight) and Jim Jordan (Judiciary) to pursue a foreign-corruption investigation as part of their attempt to impeach President Biden and to make Hunter a focal point of that inquiry. In fact, in the very weeks just before then U.S. Attorney Weiss reneged on the plea and diversion resolutions proposed and then approved by him, assistants in Weiss’s Office and brought in from other offices (Leo Wise and Derek Hines) appear to have been pursuing the same

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<sup>3</sup> [\*Trump Says Hunter Biden Should’ve Gotten the Death Penalty for Not Paying His Taxes on Time\*](#), Vanity Fair (July 11, 2023).

Russian disinformation allegations pushed by House Republicans—despite that a different U.S. Attorney’s Office charged with vetting those claims (U.S. Attorney Scott Brady for the Western District of Pennsylvania) had rejected them a year earlier. The signatures of prosecutors Wise and Hines on the final copies of the plea and diversion agreements was curious, given that career prosecutors in Delaware and DOJ’s Tax Division had worked the investigation for years and been the ones to negotiate and agree to the June 2023 resolution.

Chairmen Comer and Jordan even proclaimed they had a secret “informant”—who later went “missing”—who had evidence that Hunter and Joe Biden were involved in a Chinese corruption scheme with CEFC China Energy, and its officials Patrick Ho and Ye Jiaming.<sup>4</sup> As it turns out, the conspiracy-laden lie relied upon by Comer and other House Republicans was demonstrably false, and in July 2023, the “informant,” Gal Luft, was arrested and indicted on federal charges for violating Iranian sanctions, trafficking in illegal arms sales, and acting as an unregistered foreign agent for the Chinese government.<sup>5</sup> Comer appeared on Fox News to share that his anti-Biden informant went “missing,” when in reality Comer could not find him because Luft had skipped bail in Cyprus.<sup>6</sup> This was just one of the “very credible” informants whom these GOP chairmen were relying upon to fuel their investigations of Hunter.

As it turned out, in February 2024, when there was no choice but to finally address the now public and obvious Russian disinformation campaign, Alexander Smirnov—a chief purveyor of the made-up tales and confidential FBI informant—was indicted for lying to U.S. law enforcement. Smirnov awaits trial in California that Special Counsel prosecutors were quite willing to postpone until after the 2024 election, while simultaneously pushing for Hunter to be tried in his two cases in Delaware and California in the same month (June 2024). The better-late-than-never charges against Smirnov did not change the impact that he had as a willing co-conspirator with Trump operatives to create a false narrative about Hunter and his father.

Beginning as early as March 2017, Smirnov, a paid source since 2010, provided information to the FBI<sup>7</sup> mischaracterizing Hunter’s involvement with Burisma and an alleged Burisma bribery scheme. The information was memorialized in an interview memorandum, the FD-1023 (“2017 Smirnov 1023”).<sup>8</sup> Then in December 2018, an associate of Trump’s personal lawyer Rudy Giuliani, Lev Parnas,<sup>9</sup> with his own deep connections to Ukraine and to Russian oligarchs, attended a White House Hannukah party with Giuliani, where President Trump told Parnas: “I spoke with Giuliani, he tells me you are doing good things. Keep it up. I wish you well on your trip [to come up with dirt in Ukraine].”<sup>10</sup> In early January 2019, Giuliani, who was always

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<sup>4</sup> Steve Benen, [James Comer’s Missing ‘Informant’ Isn’t Doing The GOP Any Favors](#), MSNBC (July 11, 2023).

<sup>5</sup> Philip Bump, [Indictment Of GOP’s ‘Missing’ Informant Becomes Conspiracy Fodder](#), Wash. Post (July 11, 2023).

<sup>6</sup> *Id.*

<sup>7</sup> Information was provided to Smirnov’s handler, a special agent of the FBI, now identified as Chris Walters. See *United States v. Smirnov*, No. 24-cr-00091-ODW-1 (C.D. Cal. Feb. 14, 2024).

<sup>8</sup> The 2017 Smirnov 1023 stated: “During this call, there was a brief, non-relevant discussion about former VP Joe Biden’s son, Hunter Biden, who is currently on the Board of Directors for Burisma Holdings.”

<sup>9</sup> Parnas has now admitted that he was sent on a political mission to dig up dirt on the Bidens and, despite traveling the world to do so, came up with nothing but lies and Russian disinformation. He has testified to that in Congress and confessed this in a documentary titled *From Russia With Lev*, which recounts his globe-trotting mission with partner Igor Fruman at the behest of Rudy Giuliani and those working for President Trump. Jeremy Barr, [Rachel Maddow’s First Film Is About Lev Parnas — And a Surprise Meeting](#), Wash. Post (Sept. 7, 2024).

<sup>10</sup> This account is discussed in Lev Parnas’s documentary, *From Russia With Lev*, premiering on September 20, 2024.

in close coordination, if not lock-step, with President Trump, spoke by phone with Viktor Shokin, the former prosecutor general of Ukraine, to generate allegations (later debunked) about misconduct by Hunter and his family.

Giuliani, Parnas and another Giuliani associate, Igor Fruman, then met with then Ukrainian prosecutor general Yuriy Lutsenko at Giuliani's New York office, where the Trump operatives offered to help Lutsenko oust U.S. Ambassador to Ukraine Marie Yovanovitch—an anticorruption stalwart who had blocked Lutsenko from engaging with senior Trump officials. In exchange, Lutsenko claimed he could provide Giuliani with dirt on Hunter and his family. At that meeting, Lutsenko gave Giuliani different disinformation regarding the false Biden–Burisma bribery scheme and suggested that Giuliani cause DOJ to initiate a tax investigation into Hunter to see whether he had paid his taxes. According to *The New York Times*' Adam Entous, "Lutsenko knew what would interest Giuliani, so he had brought along financial information purportedly drawn from bank records, which, he said, proved that Burisma, a Ukrainian gas company, had paid Hunter Biden and his business partner \$1M to 'lobby' Joe Biden." Parnas has since corroborated this account. "Giuliani seized on Lutsenko's claims, offering to help him secure high-level meetings in Washington and encouraging him to pursue investigations beneficial to Trump."<sup>11</sup> None of these allegations was true.

At the January 2019 meeting in New York, Lutsenko suggested to Giuliani that if the U.S. DOJ launched an investigation into Hunter, the prosecutor general's office would share relevant information. Lutsenko suggested that U.S. authorities interview Hunter and a business partner of his, Devon Archer. "Did they pay taxes in America?" Lutsenko asked Giuliani, adding: "I'm sure yes, but let's check it. Maybe they're as stupid as [Paul] Manafort."<sup>12</sup>

Giuliani would later personally hand-deliver this packet of disinformation documents, and his notes from his meeting with Yuriy Lutsenko and call with Viktor Shokin, to President Trump's Secretary of State, Mike Pompeo, in March 2019, in order for the State Department to also initiate some investigation of Hunter and others.<sup>13</sup> Noteworthy is that Giuliani sought to initiate this plan by going to the State Department—a route he would use again.

## **B. 2019: DOJ Under President Trump Worked With His Personal Attorney to Deepen the Investigation of Hunter Biden**

In January 2019, just as suggested in Giuliani's call with Lutsenko, prosecutors in Delaware (under then U.S. Attorney Weiss, a Trump appointee) opened their own, separate investigation into possible tax violations by Biden based on bank records.<sup>14</sup>

At the same time, also inspired by a Russian disinformation campaign, FBI informants outside the Delaware and Baltimore field offices were pursuing their own agendas against Hunter. In January 2019, an FBI informant and former Russian KGB agent—code name "Rollie"—briefed DOJ officials in Los Angeles, which included a slide-show presentation accusing Biden and his

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<sup>11</sup> Adam Entous, [The Ukrainian Prosecutor Behind Trump's Impeachment](#), New Yorker (Dec. 16, 2019).

<sup>12</sup> *Id.*

<sup>13</sup> [Giuliani says State Dept vowed to investigate after he gave Ukraine docs to Pompeo](#), NBC News (Oct. 4, 2019).

<sup>14</sup> Opening Statement of [Testimony of Special Agent Joseph Ziegler](#) before H. Comm. on Oversight & Accountability at 6–7 (July 19, 2023).

associates of engaging in money laundering, tax evasion, and fraud. Rollie's slides (obtained by *Business Insider*) included news-article clippings and links to Ukrainian and Russian websites.<sup>15</sup>

Then on May 11, 2019, according to two sources with direct knowledge of the incident, Rollie handed a thumb drive containing more disinformation about Hunter and his work for Burisma to an aide for then Secretary of State Pompeo, at the conservative Claremont Institute's 40th-anniversary gala in Beverly Hills.<sup>16</sup> The thumb drive Rollie gave Pompeo's aide contained some of the same material that Rollie had presented weeks earlier, in January 2019, in a briefing to DOJ officials in Los Angeles. Once again, a Russian (here a KGB agent) provided information to damage Hunter, not even to DOJ but to President Trump's Secretary of State.

Now there were at least two channels of 2020 political disinformation moving from East to West—one from the disinformation efforts passed through Smirnov and another from FBI informant Rollie with ties to Russia and Eastern Europe. Additionally, on March 19, 2019, Trump-Giuliani media ally John Solomon (then Executive Vice President, *The Hill*) emailed Parnas: "I just got all 261 pages of bank records that the FBI gathered showing transfers from Burisma Holdings to a JP Morgan Account in NYC (via Cyprus) and then into Hunter Biden's and Devon Archer's personal accounts. . . . Source says it is evidence of classic looting."<sup>17</sup> Solomon, Parnas, and others were at the center of compiling and disseminating this misinformation within official U.S. channels. This group (also occasionally including MAGA Rep. Devin Nunes and well-known Republican attorneys Joe DiGenova and his spouse, Victoria Toensing) referred to themselves as the "BLT Team," as they met several times a week in a private room at BLT Prime, a steakhouse on the second floor of Trump International Hotel in Washington, D.C.<sup>18</sup> In a text message to Lev Parnas about the bank records Solomon obtained, Giuliani wrote, "Very powerful. Time to go with it so maybe DOJ [m]ay start to investigate a real crime[.]"<sup>19</sup>

Then in summer of 2019, Parnas and Giuliani met with Vitaly Pruss (partner at TriGlobal Capital) for lunch in New York City. Pruss was a close associate of Mykola Zlochevsky (owner of Burisma Holdings). At that lunch, Pruss explained that after Hunter joined the Burisma board, Pruss took Biden to a series of events—notably, a 40th-birthday party for Biden in Moscow and a trip to Kazakhstan to meet the foreign minister. On those trips, according to Pruss, "they fed him drugs, alcohol and prostitutes" and the FSB had recorded it all. Pruss explained to Parnas and Giuliani that it was in Kazakhstan where the FSB got hold of Biden's laptop and its hard drive. According to Parnas, Giuliani told Pruss, "we got him" (referring to Hunter).<sup>20</sup> That meeting resulted in Giuliani and Parnas's planning trips to Europe to try to obtain the data.

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<sup>15</sup> Mattathias Schwartz, [Exclusive: Russia-linked smear campaign against Hunter Biden began earlier than previously thought](#), *Business Insider* (Feb. 22, 2024).

<sup>16</sup> *Id.*

<sup>17</sup> Email from J. Solomon (jsolomon@thehill.com) to L. Parnas, J. DiGenova, and V. Toensing re: "Tell PG Lutsenko to get on a plane and come to DC" (Mar. 19, 2019).

<sup>18</sup> [Exclusive: Giuliani associate willing to tell Congress Nunes met with ex-Ukrainian official to get dirt on Biden](#), CNN (Nov. 23, 2019); [Written Statement of Lev Parnas Before the House Oversight and Accountability Committee](#) on March 19, 2024 ("At Trump's behest, in early 2019 Giuliani convened a group of political and media professionals for regular strategy meetings at BLT Steak in Washington, D.C. Among others, this group included John Solomon, an investigative reporter for The Hill who had many contacts at FOX News [and] [t]hen-Congressman Devin Nunes").

<sup>19</sup> Message provided by Lev Parnas, and cited in MSNBC's Sept. 20, 2024 documentary, "From Russia With Lev."

<sup>20</sup> Lev Parnas Interview Memo.



With the 2020 presidential election heating up, Republicans in Congress also stepped up their role to investigate Hunter. On October 2, 2019, State Department Inspector General Steve Linick provided Congress with a dossier of disinformation documents previously given to Secretary of State Mike Pompeo by Giuliani himself, which contained baseless claims about Hunter and Joe Biden. Linick later briefed members of Congress in an urgent session to discuss the material.<sup>21</sup> Then in November 2019, Republican Senate Chairmen Chuck Grassley (Committee on Homeland Security and Governmental Affairs) and Ron Johnson (Committee on Finance) undertook an investigation into potential conflicts of interest due to Hunter’s position on the board of Burisma Holdings while his father was the “public face” of the administration’s handling of Ukraine as Vice President. That investigation ultimately produced an 87-page report in September 2020, two months before the election, entitled, “Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns,” which served as another tool to support President Trump’s 2020 election bid. Like the baseless allegations peddled by Giuliani in Congress, the allegations in the report were similarly based on lies and Russian disinformation and were debunked as complete fabrications or false claims.

Amidst this congressional fever-pitch, on December 4, 2019, Giuliani traveled to Ukraine to meet with Shokin, Andreii Telizhenko (a former Ukrainian diplomat), Andreii Derkach (another Russian disinformation agent), and Kostiantyn Kulyk (a former Ukrainian prosecutor, now indicted). There, Derkach gave Giuliani material he claimed showed additional wrongdoing by Hunter and others.<sup>22</sup> Notably, Derkach, Kulyk, and Oleksandr Dubinsky (a U.S.-sanctioned Ukrainian journalist) were later all indicted in Ukraine in 2023 for treason for being Russian GRU agents operating within Ukraine.<sup>23</sup> Nevertheless, in the years prior to being indicted in Ukraine, they succeeded in their goal of getting Russian misinformation to initiate or fuel investigations of Hunter. As Parnas later put it, “[E]veryone, from Giuliani and the BLT Team to Devin Nunes and his colleagues, to the people at Fox News, knew that these allegations against the Bidens were false. There has never been any factual evidence, only conspiracy theories.”<sup>24</sup>

Giuliani also amplified articles on social media and Fox News filled with disinformation that baselessly claimed that Joe Biden, while serving as vice president, had bribed the Ukrainians to drop an investigation into Burisma. Analysts working at the CIA at the time knew these news articles were baseless. And a subsequent review of the stories by *The Hill* (after John Solomon left) also found that they had relied on unreliable sources and contained false allegations.<sup>25</sup>

Against this backdrop, 2019 culminated with the first impeachment of President Trump on December 18, 2019, over his abuse of power and obstruction of Congress concerning his phone call with Ukrainian president Volodymyr Zelensky in which Trump stated the United States would withhold military aid and a White House meeting from Ukraine unless and until Ukraine announced an investigation of Hunter and his family.

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<sup>21</sup> [State Department inspector general gives Congress documents that Giuliani provided](#), CNN (Oct. 2, 2019).

<sup>22</sup> [Is OAN the Leading Edge of Russian Misinformation?](#), The Atlantic (June 11, 2023); [Hunt for Biden tapes in Ukraine by Trump allies revives prospect of foreign interference](#), Wash. Post (July 1, 2020). The Ukrainian government would later open an investigation into how these recordings were obtained.

<sup>23</sup> [Ukraine charges Rudy Giuliani’s top local ally with Moscow-linked treason](#), Politico (Nov. 13, 2023).

<sup>24</sup> [Letter from Lev Parnas to Hon. James Comer](#), H. Oversight & Accountability Comm. (July 18, 2023).

<sup>25</sup> [The CIA Analyst Who Triggered Trump’s First Impeachment Asks: Was It Worth It?](#), Wash. Post (Oct. 20, 2024).

### **C. 2020: DOJ Officials Started Using the Disinformation Provided by Rudy Giuliani**

On January 3, 2020, Principal Associate DOJ Deputy Attorney General Seth DuCharme emailed the U.S. Attorney for the Western District of Pennsylvania, Scott Brady, and asked: “Scott do you have time for a quick call today in re a possible discreet assignment from OAG and ODAG? Thanks, Seth.”<sup>26</sup> Brady, tasked by Deputy Attorney General Jeffrey Rosen, was instructed to receive and process material concerning Hunter Biden, his family, and Ukraine—some of it supplied by Giuliani directly—for possible distribution to prosecutors who could use the grand jury process to investigate further.<sup>27</sup>

At a press conference on February 10, 2020, Attorney General Bill Barr confirmed DOJ had in fact established a process to receive information concerning Biden and Ukraine, including “anything Mr. Giuliani might provide.”<sup>28</sup> The 2017 Smirnov 1023 was also revived. On May 19, 2020, Smirnov texted his handler about seeking still-additional information to investigate Hunter and his family. When his FBI handler expressed doubts, Smirnov would not relent and replied, “For sure yes. I’ll try to prove to you bro.”<sup>29</sup>

Higher-ups in DOJ remained involved in the investigation—Brady’s assessment “needed to be renewed every 30 days,” and required various involvement and approvals at DOJ headquarters, which Brady later described as “unusual.”<sup>30</sup> Brady’s impression was the FBI wanted to protect Smirnov so that it could continue to use him as a confidential source.<sup>31</sup>

### **D. October 2020: Despite Other U.S. Attorney’s Offices Closing Their Reviews, the District of Delaware Continued Its Investigation**

Brady submitted a final report to Principal Associate Deputy Attorney General Richard Donoghue about his investigation in September 2020, which was also sent to federal prosecutors in New York and Delaware in October 2020.<sup>32</sup> Despite other U.S. Attorney’s Offices discounting Smirnov’s wild accusations and closing their inquiries because of his unsubstantiated allegations, certain contingencies at DOJ continued to pursue the claims. In Delaware and elsewhere, DOJ’s investigation of Hunter continued undeterred, and prosecutors and IRS agents pressed forward, dragging out the investigation from 2020 until 2023, which allowed politics to interfere with the process and influence decision making.

In October 2020, following the first release of email contents from the purported “Hunter Biden Laptop” in the *New York Post* on October 14, 2020, and with the election just weeks away, President Trump started to pressure DOJ on the investigation. President Trump called Attorney General Barr and inquired about the investigation of Biden. According to an account in Barr’s

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<sup>26</sup> [DOJ Records](#) released in response to American Oversight FOIA Request.

<sup>27</sup> [How a Bill Barr ‘assignment’ led to a Biden impeachment effort based on a lie](#), Wash. Post (Feb. 23, 2024); *see also* Smirnov Indict. ¶ 22. Sen. Lindsey Graham told CBS’s *Face the Nation* in February 2020: “The [DOJ] is receiving information coming out of the Ukraine from Rudy to see -- he told me -- they created a process that Rudy can give information and they [DOJ] would see if it’s verified.” [Transcript: L. Graham, Face the Nation](#), CBS (Feb. 9, 2020).

<sup>28</sup> [House Democrats demand answers on DOJ’s ‘intake process’ for Giuliani](#), Axios (Feb. 10, 2020).

<sup>29</sup> [How a Bill Barr ‘assignment’ led to a Biden impeachment effort based on a lie](#), Wash. Post (Feb. 23, 2024).

<sup>30</sup> Brady Transcribed Interview, Oct. 23, 2023, at 41, 88–89.

<sup>31</sup> *Id.* at 92, 150.

<sup>32</sup> [Letter from Chuck Grassley to Att’y Gen. Merrick Garland, FBI Dir. Christopher Wray](#), U.S. Senate (Oct. 24, 2023).

memoir, President Trump said to Barr, “You know this stuff from Hunter Biden’s laptop?” Barr replied, “Mr. President, I can’t talk about that, and I am not going to.” President Trump, still undeterred, stated, “You know, if that was one of my kids—” Barr cut him off and replied: “Dammit, Mr. President, I am not going to talk to you about Hunter Biden. Period!”<sup>33</sup> As is well documented by now, the stolen-laptop contents were disseminated to the *New York Post* journalists by Trump’s attorney Giuliani and his own lawyer, Robert Costello.<sup>34</sup> And just days later, Trump tweeted, “Hunter Biden’s laptop is a disaster for the entire Biden family, but especially for his father, Joe. It is now a proven fact, and cannot be denied, that all of that info is the REAL DEAL.”<sup>35</sup>

On October 23, 2020, in Delaware, 50 days after having closed its investigation based upon Russian disinformation that Giuliani and others had provided, on the order of Principal Deputy Attorney General Richard Donoghue, Brady’s team briefed Weiss’s office on its findings. The in-person briefing occurred despite FBI concerns about Smirnov’s credibility.<sup>36</sup>

Following the election of Joe Biden in November 2020, another ominous political sign from President Trump occurred. In a phone call with DOJ officials Donoghue and Rosen about their efforts to challenge the election results, President Trump explicitly pressed for an investigation of Hunter. “You figure out what to do with Hunter Biden,” Trump stated, according to Donoghue’s handwritten notes of the call and congressional testimony. “That’s up to you guys.” But “people will criticize the DOJ if Hunter’s not investigated for real.”<sup>37</sup>

### **III. REPUBLICANS, AGAIN LED BY DONALD TRUMP, INTERFERED WITH THE RESOLUTION OF THE INVESTIGATION OF HUNTER BIDEN**

#### **A. U.S. Attorney Weiss Rejected the Recommendation of Career Prosecutors for a Non-Prosecution Agreement and Then Reneged on the Resolution He Had Personally Approved—All After Political Pressure Came to Bear<sup>38</sup>**

Despite the change of administration in January 2021, Attorney General Merrick Garland kept Trump-appointed U.S. Attorney David Weiss in place as U.S. Attorney specifically because there was an open investigation of Hunter in that office. That decision turned out to have the opposite of what was intended. Rather than showing that the investigation would be done objectively within DOJ policies and practices of what was and was not charged, after enormous partisan political pressure was generated, U.S. Attorney Weiss reneged on a non-prosecution resolution of the investigation that was negotiated and recommended by *nonpolitical, career*

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<sup>33</sup> [Kaitlin Collins Ignores Bill Barr’s Role in the Effort that Framed Joe Biden](#), Empty Wheel (Apr. 28, 2024).

<sup>34</sup> [Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad](#), N.Y. Post (Oct. 14, 2020).

<sup>35</sup> @realDonaldTrump, X (Oct. 18, 2020, 9:50 AM) <https://x.com/realDonaldTrump/status/1317825484495880192>; see also Trump Twitter Archive, available at <https://www.thetrumparchive.com/>.

<sup>36</sup> [Shapley Memorandum of Conversation](#) at 1 (Oct. 22, 2020). In fact, as is detailed later (*see* Section III.D), the timing suggests that the reason U.S. Attorney Weiss first brought on prosecutors from outside his office and then was more than willing to jettison the investigation resolution recommended by his career assistants in July 2023 was that his new team and he were again considering Smirnov’s discredited allegations or others about foreign contacts.

<sup>37</sup> [How a Bill Barr ‘assignment’ led to a Biden impeachment effort based on a lie](#), Wash. Post (Feb. 23, 2024).

<sup>38</sup> The documents, emails, and calls described or quoted in this Section are cited in the Declaration of Christopher J. Clark. *See United States v. Biden*, No. 23-cr-00061-MN, ECF 60-2 (Clark Declaration) (Dec. 11, 2023).



*prosecutors* in his office. In addition, he ultimately brought charges that were *contrary to long-standing DOJ policies and practice* for both gun possession and the late filings of taxes.

On October 6, 2022, at least one news outlet reported that federal agents investigating Hunter were dissatisfied with the pace of the investigation and that career prosecutors saw the lack of merit in any charges. As always, disclosure by government sources (*by whom and how many agents was unknown*) was aimed to pressure some case to be brought.<sup>39</sup> On February 8, 2023 (and again in June 2023), Hunter’s counsel wrote to DOJ’s Inspector General about the unauthorized disclosure of investigation information, but years later there has been no action taken—another example of how DOJ did not treat Hunter as it did others.

After a thorough, painstaking five-year investigation by prosecutors in Delaware, which included five presentations by Hunter’s counsel to prosecutors and DOJ Tax Division’s pointing out long-standing DOJ policies that would not support any criminal charges against Hunter, career prosecutors in Delaware concluded that the allegations and evidence merited a non-prosecution agreement (NPA). On May 15, 2023 Delaware Criminal Chief Shawn Weede, DOJ Tax Counsel Mark Daly, and Assistant U.S. Attorneys Lesley Wolf and Carly Hudson initiated a phone call with Hunter’s counsel, during which they indicated the U.S. Attorney’s Office’s willingness for a non-charge disposition to resolve any and all investigations of Hunter by DOJ and noted the only two nonnegotiable requirements for a non-charge disposition: that any resolution (1) be public and (2) include an accompanying statement of facts. The non-charge resolution would not include any plea by Hunter.

Three days later, on May 18, after Hunter’s counsel had submitted a draft non-prosecution agreement to the Office, AUSA Wolf relayed that U.S. Attorney Weiss had now changed his position from what his career assistants had stated and would no longer agree to an NPA. Instead, the Office proposed a deferred-prosecution agreement on the charge related to Hunter’s possession of a firearm. In an email to Hunter’s counsel that evening, AUSA Wolf indicated that the Office “would consider” a pretrial-diversion agreement in place of an NPA and listed the terms required for such a resolution. On May 19, Hunter’s counsel sent AUSAs Wolf and Hudson a draft diversion agreement to review based on a framework provided to them by the U.S. Attorney’s Office itself. It is now known that agents investigating Hunter who were part of the investigating team had already begun their internal criticism of the way the investigation had been conducted, were soon to do so publicly, and were pushing for various felony charges against him. In the midst of these internal disagreements, Weiss changed his mind again to no longer agree to a deal without some plea from Hunter.<sup>40</sup> According to AUSAs Wolf and Hudson, U.S. Attorney Weiss now required that a resolution include pleas to two failure-to-file misdemeanors (with a recommendation for probation) but would still include a diversion agreement to address Hunter’s brief 11-day possession of a handgun. Hunter agreed to go forward with a new agreement on these terms, subject to the U.S. Attorney’s Office not changing the basic terms again.

On June 2, 2023, Hunter’s counsel went to the U.S. Attorney’s Office in Wilmington, where the Office presented its draft of a new Diversion Agreement, along with a draft Plea Agreement.

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<sup>39</sup> [Federal agents see chargeable tax, gun-purchase case against Hunter Biden](#), Wash. Post (Oct. 6, 2022).

<sup>40</sup> These internal deliberations would later become the subject of media articles. See Betsy Woodruff Swan, [In Talks With Prosecutors, Hunter Biden’s Lawyers Vowed To Put The President On The Stand](#), Politico (Aug. 19, 2023); Devlin Barrett, [Backroom Battles Between IRS Agents, Prosecutors In Hunter Biden Tax Case](#), Wash. Post (Oct. 2, 2023).

Among other things, at the meeting and in subsequent calls, Hunter’s counsel raised the issue concerning any agreement’s immunity from any further charges, especially from any future prosecution by a new U.S. Attorney in a different administration.

On June 7, 2023, a revised version of the immunity provision was reached whereby the United States agreed “not to criminally prosecute Biden, outside of the terms of this Agreement, for any federal crimes encompassed by the attached Statement of Facts.” A copy of the Diversion Agreement was submitted to the court in Delaware on June 8, which then constituted a final resolution of the investigation by DOJ. On June 19, after a phone call with First Assistant U.S. Attorney Shannon Hanson, Hunter’s counsel emailed a proposed media statement to accompany the public filing of both Informations the next day that read, in part, “I can confirm that the five-year long, extensive federal investigation into my client, Hunter Biden, has been concluded through agreements with the United States Attorney’s Office for the District of Delaware.” First Assistant U.S. Attorney Hanson requested only that the language of the statement be slightly revised to state the investigation “is resolved” rather than “has been concluded.” Hunter’s counsel then asked directly whether there was any other open or pending investigation of him overseen by the Delaware Office, and Assistant U.S. Attorney Hanson responded there was not another open or pending investigation. At 4:18 P.M. on June 19, Hunter’s counsel emailed the revised statement to Assistant U.S. Attorney Hanson that, as she had requested, read, “With the announcement of two agreements between my client, Hunter Biden, and the United States Attorney’s Office for the District of Delaware, it is my understanding that the five-year investigation into Hunter is resolved.”

On June 19, First Assistant U.S. Attorney Hanson emailed Hunter’s counsel, attaching final copies of the agreements and Informations. On June 20, the Office, as part of an agreed-upon resolution, filed two Informations with the court—a felony firearm Information and misdemeanor tax Information (the Diversion Agreement and Plea Agreement were not filed then).

On July 19, a week before Hunter’s scheduled initial appearance on July 26, 2023, Chief U.S. Probation Officer Margaret Bray formally approved the Diversion Agreement and issued her pretrial-diversion report. Ms. Bray’s signed cover letter and report included Probation’s approval of diversion for Biden in this case and stated, “The United States Probation Office recommends the defendant as a candidate for a 24-month term of Pretrial Diversion.” AUSA Ben Wallace emailed the final agreed-to copy to Judge Maryellen Noreika’s chambers on July 20, 2023 writing, “The parties and Probation have *agreed* to revisions to the diversion agreement to more closely match the conditions of pretrial release that Probation recommended in the pretrial services report issued yesterday.”(emphasis added). The Diversion Agreement sent to the court on July 20 reflected the final agreement of the “parties and Probation,” which followed Probation’s approval of a 24-month pretrial diversion and was the exact same version that Assistant U.S. Attorney Leo Wise, Hunter Biden, and Hunter’s attorney signed in the scheduled hearing in court on July 26, 2023.

### **B. Congressional Interference Began to Pressure the Delaware U.S. Attorney to Drop His Deferred-Prosecution Agreement With Hunter Biden**

Between prosecutors’ filing of the letter on June 20 describing the deal’s structure and the hearing on July 26, the Republican political backlash directed at U.S. Attorney Weiss was forceful

and unrelenting. That effort ended up achieving its goal of having the resolution scrubbed. On June 20, Trump posted repeatedly on Truth Social about Weiss and Biden’s agreement, decrying it as a “traffic ticket” and a “sweetheart deal,”<sup>41</sup> and on July 11, Trump chided Weiss directly: “Weiss is a COWARD, a smaller version of Bill Barr, who never had the courage to do what everyone knows should have been done. He gave out a traffic ticket instead of a death sentence.”<sup>42</sup> At political rallies, Trump swore “retribution” on his political rivals and the agencies he blamed for helping them. He promised he would “defund the DOJ and FBI” until “they come to their senses,” and appoint a “real special ‘prosecutor’” to “go after” the Bidens.<sup>43</sup> Soon, House members denounced Biden’s deal as a “slap on the wrist.”<sup>44</sup>

Republicans in Congress followed Trump’s lead, and the political pressure to abandon the investigation resolution grew more intense with each day. Leaders of the House Judiciary, Oversight and Accountability, and Ways and Means Committees opened a joint investigation into Biden’s case and DOJ’s plea negotiations. On June 23, Ways and Means Committee Republicans voted to publicly release closed-door testimony from two IRS agents who had been part of the investigation team and who disagreed with experienced, career prosecutors’ decisions in the case. In the words of Chairman Smith, the agents “describe how the Biden Justice Department intervened and overstepped in a campaign to protect the son of Joe Biden by delaying, divulging and denying an ongoing investigation into Hunter Biden’s alleged tax crimes.”<sup>45</sup> Republicans called a full House Oversight hearing on July 19, 2023, to hear from the two IRS case agents, Ziegler and Shapley, who testified about their work on the Biden case, and in the process publicly disclosed would otherwise would be confidential grand jury and taxpayer information about Hunter. Rep. Marjorie Taylor Greene even used the Oversight hearing to publicly display nude images of Hunter on the floor to denigrate him.<sup>46</sup> In fact that summer, these agents provided their entire investigative case file to the House Ways and Means Committee, which voted that Fall along party lines 24 (R) – 17 (D), to do the unprecedented act of releasing that material publicly (nearly 700 pages of IRS documents, emails, letters, and case files).<sup>47</sup> Following that public release, the agents themselves (and their personal lawyers) then went on a media blitz—making more than 20 television or podcast appearances between May and August 2023—discussing the investigation and their work on various news programs. This too was unprecedented.

Then on July 25, 2023, just one day before the court hearing that would have finalized the investigation, House GOP Ways and Means Committee Chair Jason Smith filed papers to intervene in the judicial process of Biden’s plea and filed a brief attaching the interview transcripts from

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<sup>41</sup> [Trump Compares Hunter Biden Charges to ‘Traffic Ticket’](#), The Hill (June 20, 2023).

<sup>42</sup> [Trump Blasts Prosecutor He Appointed for Not Giving Hunter Biden ‘Death Sentence’](#), Rolling Stone (July 11, 2023).

<sup>43</sup> [Trump Vows to Appoint Special Prosecutor to ‘Go After’ Biden If Former President Wins in 2024](#), The Hill (June 12, 2023).

<sup>44</sup> [‘Slap on the Wrist’: Donald Trump, Congressional Republicans Call Out Hunter Biden Plea Deal](#), USA Today (June 20, 2023).

<sup>45</sup> [GOP Releases Testimony Alleging DOJ Interference in Hunter Biden Tax Case](#), PBS (June 23, 2023). Weeks earlier, Republicans in the House Ways and Means Committee voted to release *hundreds* of pages of Biden’s confidential grand jury material and taxpayer information provided by the two agents, and in so doing, dumped into the public the IRS’s investigative case files of Biden for all to read.

<sup>46</sup> [Marjorie Taylor Greene’s explicit visuals at Hunter Biden hearing draw rebuke](#), Wash. Post (July 19, 2023).

<sup>47</sup> [Ways and Means votes to release more Hunter Biden documents](#), Roll Call (Sept. 27, 2023); [House Republicans release more than 700 pages of internal IRS documents from whistleblowers in Hunter Biden probe](#), CNN (Sept. 28).

Agents Shapley and Ziegler regarding the Biden investigation. In this unparalleled partisan action, Smith claimed his brief “provide[d] context relating to the background and procedural anomalies present in the investigation, charging decisions, and plea negotiations present in this case” that “the Court may find useful as it considers the plea agreement before it.”<sup>48</sup> Republicans’ sustained attacks succeeded. As *The New York Times* explained, “Weiss was willing to conclude the investigation without even as much as a plea deal before the [IRS] agents accused the Justice Department of interfering.”<sup>49</sup>

It was U.S. Attorney Weiss and his assistants who insisted that his office write the final agreements and insisted on the unusual format of there being a public Diversion Agreement in which any go-forward immunity would be contained and a separate tax plea agreement that would cross-reference portions of the Diversion Agreement. At the hearing to go over the agreement, the court raised questions about the Plea Agreement and then deferred a decision on the plea until further briefing was submitted by the parties. However, the U.S. Attorney’s Office—following the relentless criticism and attacks by Trump and his partisan allies—did not take long to jettison the deal that it had struck and that had subjected prosecutors in Delaware to political condemnation. The court, while raising questions concerning some of the procedures in the agreement for alleging breach and the court’s role as arbiter of any breach, and about the scope of Hunter’s immunity, never stated that the deal would be unfair without more serious charges levied against Hunter.<sup>50</sup>

Republican members of Congress quickly took credit for sabotaging Weiss’s proposed Plea Agreement, celebrating the end of the deal as their doing. Chairman James Comer declared outside the Capitol, “I think that you’re seeing our investigation that’s shined a light on the many wrongdoings of the Biden family has picked up a lot of credibility today, because now we see that there are a lot of crimes that this family’s committed and that played out in court today.”<sup>51</sup> Chairman Smith told Fox News that that afternoon “justice has been served,” and later said, “Announcement of a special counsel only happened because congressional GOP exposed the two-tiered judicial system by shining light onto the investigation into Hunter Biden’s alleged financial crimes & the political interference that shielded both him & POTUS from scrutiny.”<sup>52</sup>

Chairmen Comer, Jordan, and Smith have continued to use their Committees’ subpoena power to criticize Weiss for not punishing Hunter more severely. In November 2023, they pressured Weiss (after he had been appointed Special Counsel as they had demanded and had already brought three felony charges in Delaware) to sit for closed-door testimony to badger him about his charging decisions against Hunter—another unprecedented abuse of power and intrusion during a pending investigation by a special counsel or DOJ. The Committees also compelled

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<sup>48</sup> *United States v. Biden*, No. 23-mj-274-MN, ECF 7-2 & 7-3 (July 25, 2024).

<sup>49</sup> Michael Schmidt et al., [Inside the Collapse of Hunter Biden’s Plea Deal](#), N.Y. Times (Aug. 19, 2023). The article does not disclose the source. The account is most likely true, considering the charging statistics, DOJ enforcement policies, and Mr. Weiss’s initial reluctance in prosecuting Biden on these charges.

<sup>50</sup> July 26, 2023 Tr. at 104:24–16 (“These agreements are not straightforward and they contain some atypical provisions. I am not criticizing you for coming up with those, I think that you have worked hard to come up with creative ways to deal with this.”), 105:6–15 (“I would like some briefing, additional briefing . . . on what it is that makes this plea acceptable, because I’m not saying that it is not, but nobody seems to really have given me [] what I would need . . . to determine that . . .”).

<sup>51</sup> [Comer Says House Investigations Into Hunter Biden Given a ‘Lot of Credibility’ After Plea Deal Crumbles](#), Fox News (July 26, 2023).

<sup>52</sup> @RepJasonSmith, X (Aug. 11, 2023), <https://twitter.com/RepJasonSmith/status/1690065476838105088>.

testimony from U.S. Attorneys Matthew Graves of D.C. and Martin Estrada of California’s Central District regarding their offices’ decisions *not* to bring tax or other charges against Hunter and not to partner up with Weiss’s office on such charges.<sup>53</sup> The chairmen also forced AUSA Wolf, who negotiated the Diversion and Plea Agreements, to sit for closed-door testimony about the investigation, and have sought to compel DOJ Tax Division attorneys Mark Daly and Jack Morgan to do the same.<sup>54</sup> Allowing prosecutors and investigators to testify in Congress while a case is pending is something DOJ normally resists, to avoid the reality or appearance of DOJ’s giving into congressional interference.<sup>55</sup> Not so here.

### **C. After the Political Pressure, the Delaware U.S. Attorney’s Office Insisted on New Terms It Knew Would Not Be Accepted, and Then It Brought Unprecedented Charges Against Hunter Biden**

Following the July 26 hearing, Hunter’s attorneys attempted to address the Delaware judge’s questions and restore the terms of a settlement agreement. Following the criticism leveled against him from Republicans, U.S. Attorney Weiss directed his colleagues to propose new terms far different from the ones he had approved before the political pressure campaign. Among these were to remove the court as arbiter or decider as to whether any condition of the agreement had been breached or violated and to delete the previously agreed-upon immunity provision for other events the prosecutors could now pursue.

These changes were obviously unacceptable (e.g., a defendant would not agree to pleading to two misdemeanor offenses while the prosecutors could keep bringing additional even felony charges). When the objections were communicated,<sup>56</sup> on August 9, DOJ responded that neither the Plea Agreement nor the Diversion Agreement was in effect any longer, and that neither side was bound by them.<sup>57</sup> Then, U.S. Attorney Weiss did something additionally remarkable that was exactly what some of the Republicans were demanding. After more than four years of investigating Hunter as U.S. Attorney and despite his prior statements (echoed by Attorney General Garland) that he had “never been denied the authority to bring charges in any jurisdiction”<sup>58</sup> and that “[a]t no time was [he] blocked, or otherwise prevented from pursuing charges or taking the steps necessary in the investigation by other United States Attorneys, the Tax Division or anyone else at the Department of Justice,”<sup>59</sup> he requested additional power as a Special Counsel. Oddly,

<sup>53</sup> See [Top DOJ prosecutor in DC refutes claim that he blocked Hunter Biden tax charges in his district](#), CNN (Oct. 13, 2023); [Federal prosecutor to Congress: I didn’t hinder Hunter Biden probe](#), Politico (Oct. 27, 2023).

<sup>54</sup> [House Republicans sue Justice Department tax attorneys in Hunter Biden probe](#), NBC (Mar. 21, 2024).

<sup>55</sup> There have been only a few occasions involving high-level public officials where the supervisor of an investigation appeared before a congressional committee while the investigation was pending. One instance was the investigation prompted by the Watergate break-in and cover-up implicating the President of the United States, and the other was under the Independent Counsel Statute and the proceedings of cabinet officer Michael Espy. On Watergate, only after the criminal events in question had already been exposed to the public and there was minimal risk of additional pretrial publicity and prejudice did the special prosecutors testify. Likewise, the Independent Counsel’s testimony in 1997 about Mr. Espy’s alleged wrongdoing came only after the government’s successful prosecution of Espy’s chief of staff, Ronald H. Blackley, on three federal counts. Hunter Biden is a private citizen, and Weiss testified only a few weeks after Biden was charged with felonies in Delaware.

<sup>56</sup> Letter from C. Clark to L. Wise & D. Hines on Aug. 7, 2023.

<sup>57</sup> Letter from L. Wise to C. Clark on Aug. 9, 2023.

<sup>58</sup> [Letter from U.S. Attorney David Weiss to Sen. Lindsey Graham](#) (July 10, 2023).

<sup>59</sup> [Special counsel David Weiss tells lawmakers he had full authority to pursue criminal charges against Hunter Biden](#), CBS News (Nov. 7, 2023).

even though he, too, previously stated that Weiss had the authority to bring any charge Weiss thought was warranted anywhere and anytime, Attorney General Garland granted the request on August 11, 2023.<sup>60</sup> Even more oddly (and as discussed below), in selecting U.S. Attorney Weiss for the role, Garland ignored a key provision in the very DOJ regulations for such positions that require a special counsel to be an independent attorney, selected from *outside* the U.S. government, let alone outside the very agency the Attorney General leads.<sup>61</sup> Yet another irregularity in how the cases of Hunter have been handled.

A few weeks later in August 2023, the now assistant Special Counsel prosecutors rejected restoring the original plea and diversion agreements and indicated that they now wanted pleas to a felony charge as part of any deal (that would surely expose Hunter to a custodial jail sentence instead of the probation that they agreed to recommend just a month before). Following that, on September 14, 2023, now Special Counsel Weiss indicted Biden on three felony gun charges in the District of Delaware. Then, on December 7, Special Counsel Weiss indicted Biden on nine tax charges in the Central District of California—three felony tax offenses and six misdemeanor tax offenses, ranging from 2016 to 2019.

#### **D. At the Time Delaware Prosecutors Were Supposed to Finalize the Resolution of the Investigation, the U.S. Attorney’s Office Revived Alexander Smirnov’s Discredited Russian Disinformation Claims**

What has since come to light is the curious timing of the Delaware prosecutors’ efforts on July 26, 2023, to avoid the agreement they had made (e.g., removing any immunity for other investigations) and their refusal to agree to any new agreement without the exposure of a jail sentence. Following the shocking indictment of Russian disinformation agent Alexander Smirnov, who had been a long-running confidential human source for the FBI, it has now been revealed that behind the scenes, the revival of Smirnov’s totally discredited allegations came into play in Hunter’s case. When asked by the court during the July 26 hearing, “Could the government bring a charge under the Foreign Agents Registration Act?” Mr. Wise responded, “Yes.”<sup>62</sup> Wise’s response is explained now because, as Delaware prosecutors were finalizing the plea and diversion agreements with Hunter’s counsel in June and July 2023, other prosecutors and FBI agents in various field offices were still pursuing the leads and disinformation peddled by Smirnov.

In July 2023, sometime before the July 26 plea hearing, the FBI “requested that the U.S. Attorney’s Office for the Dist. of Delaware assist the FBI in an investigation of allegations related to the 2020 1023.”<sup>63</sup> Notably, Weiss’s team already had a copy of the 2020 FD-1023 since October 2020, when it was provided to them and they were briefed on it by Scott Brady’s team.<sup>64</sup> On July 10, 2023, U.S. Attorney Weiss wrote to Sen. Lindsay Graham that his questions regarding

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<sup>60</sup> DOJ Order No. 5730-2023, appointing Weiss as Special Counsel, metadata indicating the document was created on Aug. 11, 2023, at 10:00 A.M. before AUSA Wise responded to Mr. Clark.

<sup>61</sup> 28 C.F.R. § 600.3(a) (Qualifications of the Special Counsel).

<sup>62</sup> July 26, 2023 Hr’g Tr. at 55:5–9.

<sup>63</sup> Smirnov Indict. ¶ 41.

<sup>64</sup> Brady Transcribed Interview, Oct. 23, 2023, at 21, 23-24, 27-32.



Smirnov’s 2020 FD-1023 “relate to an ongoing investigation,” so Weiss “cannot comment on them at this time.”<sup>65</sup>

On the same day in August (the 29th) that Hunter’s counsel again met with the prosecutors to restore an agreement to the four-year investigation, unbeknownst to them, members of the Special Counsel’s team were interviewing Smirnov’s FBI handler about the 2020 FD-1023.<sup>66</sup> Despite the various times Smirnov’s allegations had been disproved or found to be unsubstantiated, the Handler and Smirnov had reviewed the 2020 FD-1023 following its public release in July 2023 by Sen. Chuck Grassley and Chairman Comer. Smirnov “reaffirmed the accuracy of the statements contained in it.”<sup>67</sup> And so this investigation into Smirnov’s claims continued after the June 2023 resolution was abandoned.

A month later, on September 27, 2023, just two weeks after Hunter’s firearm indictment, FBI investigators interviewed Smirnov in California, during which Smirnov reaffirmed many of the false statements about Hunter and a bribe paid, based upon disinformation provided to him by Russian intelligence officers.<sup>68</sup> The following month, Smirnov allegedly had in-person conversations with “Russian Official 1” overseas, and then again in December 2023 in the UAE.<sup>69</sup> It took months more for prosecutors to stop pursuing the baseless allegations made by Smirnov and charge him with making false statements to law enforcement.<sup>70</sup> However, by then, the forces seeking to derail the case resolution had succeeded.

#### **IV. AFTER RENEGING ON ANY NON-PROSECUTION AGREEMENT, THE SPECIAL COUNSEL BROUGHT UNPRECEDENTED CHARGES AGAINST HUNTER BIDEN**

##### **A. Firearm Indictment: The Facts Do Not Remotely Justify The Charges Brought**

The three felony firearm charges against Hunter were unprecedented in the District of Delaware on both the factual basis and legal predicates. Prior to changing their minds, career prosecutors concluded that no charges were warranted for an 11-day possession of a handgun, bought on a whim that was never loaded or used, and that was taken from Hunter and dumped in a public dumpster by someone else. Prosecutors also determined that charges related to “lying”

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<sup>65</sup> [Letter From U.S. Attorney David Weiss to Sen. Lindsey Graham](#), U.S. Dep’t of Just. (July 10, 2023).

<sup>66</sup> Smirnov Indict. ¶ 43.

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

<sup>68</sup> *Id.* ¶ 45.

<sup>69</sup> *Id.*

<sup>70</sup> After various times law enforcement considered and reconsidered Smirnov’s misinformation, and it apparently being at least one trigger for the sudden turnaround by the Delaware prosecutors to abandon the plea and diversion agreements they had made in July 2023, Smirnov’s repeated false statements were finally debunked when he was indicted on February 14, 2024, in the Central District of California for making false statements to federal investigators. In a custodial interview after his arrest, Smirnov admitted that officials associated with Russian foreign intelligence were involved in passing a story to him about Hunter Biden. See [Smirnov Detention Memo](#) at 5–6 (Feb. 20, 2024). However, this reckoning did not happen until his statements fueled the Republican “oversight” proceedings targeting Hunter as a means to forward their baseless impeachment inquiry against President Biden and to undermine the non-prosecution resolution that had been worked out in 2023.

on a federal gun-purchase form that asks whether someone was “using” drugs (not “have ever used drugs”) were not appropriate in this case either.<sup>71</sup>

The previous record for when federal prosecutors brought charges based on a person with substance abuse possessing a gun or a person misstating an answer on the federal form involved cases with aggravating facts—the purchaser’s having a criminal record, a person’s buying multiple weapons, a person’s being a straw purchaser, the gun being used in a crime, or some other similar factor. None of these factors existed with Hunter.

It is undisputed that the firearm Hunter had for 11 days was not used in the commission of a crime, and there is no allegation that Biden purchased the gun with that intent. There is no allegation that Biden is violent, has a history of domestic abuse, or was ever involved in stealing money, robbery, larceny, or drug trafficking. Indeed, he had no criminal history. There are no allegations that Biden attempted to purchase multiple firearms or that he purchased a firearm for someone else (a “straw purchaser”). Furthermore, Hunter did not seek the revolver back when it was recovered, and it has now been more than five years since he has been clean and sober. Also of real note is that at the time of the gun purchase and recovery, not only were no charges filed by any law enforcement authority against Hunter then, but he was also actually referred to as “the victim” of a crime for having had his revolver taken without his permission.

The Special Counsel knew this already; hence, he agreed to a diverted gun charge in June 2023, consistent with long-standing DOJ policy. There are millions (if not tens of millions) of gun owners in the United States who also use drugs each year.<sup>72</sup> DOJ simply does not charge § 922(g)(3) offenses in the absence of a violent crime or some other additional criminal conduct unrelated to the possession or purchase of a firearm.<sup>73</sup> Similarly, with respect to §§ 922(a)(6) and 924(a)(1)(A), the Government Accountability Office has authoritatively reported that DOJ rarely even investigates—let alone criminally charges—individuals who falsely denied drug use or addiction when purchasing a firearm.<sup>74</sup>

Consistent with these findings, there appears to be no case in the history of the District of Delaware in which an individual was charged under facts similar to Hunter’s. In fact, in 2022, Weiss’s office voluntarily moved to dismiss its own indictment in *United States v. Greenlaw*, a false-statement case charged under § 924(a)(1)(A) against a defendant who had made multiple

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<sup>71</sup> And, to this day, no federal agency, including DOJ and Alcohol, Tobacco, and Firearms, has taken any action against the gun store owner who sold Hunter the firearm in 2018, who has admitted to doctoring the ATF Form 4473 because the original sale to Hunter should never have occurred without proper ID, and whose text messages indicate he was seeking to collude with Donald Trump Jr. to make Hunter’s gun purchase a 2020 campaign issue.

<sup>72</sup> More than 20 percent of gun owners admitted to using drugs. Ewan Palmer, [I in 5 U.S. Gun Owners Use Drugs, Report Mental Health Condition: Survey](#), Newsweek (Apr. 16, 2018). Recent government estimates indicate nearly 60 million people in the United States use illicit drugs each year, and around 25 million struggled with a substance use disorder in the past year. Nat’l Drug Control Strategy, Exec. Off. of the President (Apr. 2022). At the same time, an estimated 42 percent of adults in the United States own a firearm or live with someone who does. See, e.g., [Key facts about Americans and guns](#), Pew Research Ctr. (July 24, 2024) (finding 32 percent personally own a gun).

<sup>73</sup> In fact, several federal courts have now ruled this statute is unconstitutional because of its potentially broad reach.

<sup>74</sup> Fewer than 1,000 such cases each year are referred for investigation. See GAO Report, *Few Individuals Denied Firearms Purchases Are Prosecuted and ATF Should Assess Use of Warning Notices in Lieu of Prosecutions*, GAO No. 18-440 at 30 (Sept. 2018) (between 2011 and 2017, fewer than 4,000 delayed denials were even referred for investigation because the owner was an unlawful user or addict).



straw purchases, including at least one such purchase only weeks after the ATF had served him with a written “Warning Notice of Straw Purchase Letter.”<sup>75</sup> After the government obtained comfort that Greenlaw would be blocked from buying another firearm, Weiss’s office voluntarily dropped the criminal charge in *Greenlaw* even though—solely according to what is a matter of public record—that case involved multiple, obvious aggravating factors. Unlike *Greenlaw*, Hunter’s case involved no aggravating factors whatsoever, and it again confirms that the Special Counsel treated Hunter differently from everyone else—by holding him more “accountable.”

Finally, the below tables demonstrate that DOJ, according to its own record, does not bring charges in these circumstances—i.e., a nonviolent individual with no felony convictions or criminal history coming into possession of a firearm after failing to acknowledge unlawful drug use on an ATF Form 4473, where the firearm was not used in the commission of a crime, lacked any aggravating factors, and was recovered 11 days later. Absent aggravating circumstances, no one has *ever* been charged in Delaware with violating § 922(g)(3) solely for having possessed a firearm while the individual either (i) was addicted to a controlled substance or (ii) was otherwise an unlawful user of a controlled substance. Rather, in the exceedingly few cases where prosecutors have brought user-in-possession charges in Delaware—a total of 19 such cases since approximately 1990—all involved aggravating circumstances not present here: more specifically, (1) the defendant was also charged with a drug-trafficking offense while also in possession of firearm(s) (9 cases); (2) the defendant possessed multiple firearms (7 cases); or (3) the defendant had a prior felony conviction (5 cases). A few of these cases involved multiple aggravating factors.

*The District of Delaware has never prosecuted anyone on comparable facts:*<sup>76</sup>

<b>Overview of Cases in D. Del. Involving 18 U.S.C. § 922(g)(3) Charge and Aggravating Factors Not Present Here</b>	
<b><i>Total 18 U.S.C. § 922(g)(3) Cases Charged</i></b>	<b>19</b>
Cases where Defendant was also charged with a drug-trafficking or other drug offense while also in possession of firearm(s)	<b>9</b>
Cases where Defendant possessed multiple firearms	<b>7</b>
Cases where Defendant had a prior felony conviction	<b>5</b>
Cases where <u>multiple</u> aggravating factors were present	<b>3</b>
Cases where <u>none</u> of the above aggravating factors were present	<b>1*</b> <b>*RHB’s case</b>

<sup>75</sup> *United States v. Greenlaw*, No. 1:21-cr-00019-MN, Dkt. 27 (D. Del. Aug. 1, 2022); *id.*, Dkt. 1, at 3 n.1 (D. Del. Mar. 1, 2021) (“On October 6, 2020, ATF had given [Greenlaw] a Warning Notice of Straw Purchase Letter explain[ing] he could ‘be imprisoned for up to ten (10) years’ or ‘fined up to two hundred and fifty thousand dollars (\$250,000),’ if it was found out that he is buying guns for other people. [Greenlaw] acknowledged the Warning Notice of Straw Purchase Letter verbally and with his signature.”).

<sup>76</sup> **Figures and data as of October 18, 2024** (including the gun charges against Hunter in 2023). Cases located and reviewed implicating the statutory provision at issue here cover the period from 1990 to the present.

Overview of Cases in D. Del. Involving 18 U.S.C. § 922(a)(6) or § 924(a)(1)(A) Charge and Aggravating Factors Not Present Here	
<i>Total 18 U.S.C. § 922(a)(6) or § 924(a)(1)(A) Cases Charged</i>	<b>35</b>
Cases where Defendant (i) was a straw purchaser, or (ii) used a straw purchaser to obtain the firearm(s), or (iii) otherwise made a false statement unrelated to controlled-substance use	<b>34</b>
Cases where Defendant made multiple purchases or multiple attempts	<b>20</b>
Cases where the firearm was used in, or otherwise intended to further, a crime of violence or a drug-trafficking offense	<b>4</b>
Cases where <u>multiple</u> aggravating factors were present	<b>22</b>
Cases where <u>none</u> of the above aggravating factors were present	<b>1*</b> <i>*RHB's case</i>

Since 2023, the *only defendant* charged with these offenses in the District of Delaware has been Hunter Biden. In that time, no other case has been charged in Delaware under these statutes.

**B. Tax Indictment: Upping the Ante From Two Misdemeanors to Three Felony Charges and Six Misdemeanors Had No Legitimate Basis**

Like the firearm charges, the tax charges brought by the Special Counsel in the Central District of California in December 2023 (and to which in September 2024 Hunter pleaded guilty to spare his family) are similarly unprecedented for their scope and factual basis, especially when considering that Hunter fully paid his past-due taxes with interest and penalties in 2021—over two years before any charges were brought. After Hunter agreed in June 2023 to plead guilty (with a recommendation for probation) to two failure to file/pay misdemeanors for tax years 2017 and 2018, Weiss backtracked on his offer, and upped the ante with a 56-page, 9-count tax indictment that included three felony charges for 2018 (felony evasion, and false and fraudulent returns) and six misdemeanors for tax years 2016, 2017, 2018, and 2019. To this day, the Special Counsel has not explained the basis for changing his mind, and yet denies that the enormous political blowback had nothing to do with the dramatic change in his position.

The Special Counsel’s tax indictment is replete with factual errors and improper loss calculations for the 2018 tax year, and also suffered from improper venue and other pleading problems. Regarding Counts 1–4, which alleged failure to pay or file taxes in 2016, 2017, or 2018, the indictment alleged these accrued before Hunter moved to California in the summer of 2019, while he was still a resident of Delaware—making California an improper venue for these charges.<sup>77</sup> This flaw did not stop the Special Counsel from bringing felony charges in California,

<sup>77</sup> With respect to failure to pay (Counts 1, 2, and 4), the Criminal Tax Manual (CTM) explains that “a person required to pay a tax must pay the tax at the place fixed for filing the return” and “[v]enue would therefore normally be in the district in which the return was filed.” CTM § 10.06[5] (2024). For failure to file, the CTM explains that the district

likely to “shop” for a more favorable forum for themselves. These errors are why Hunter would not agree to the facts in the indictment when he pleaded guilty and has reserved his right to challenge those facts and the legal issues in the case at any sentencing and on appeal.

A review of other cases in this District and elsewhere demonstrates Hunter has been treated more severely, and with criminal charges rather than a civil resolution or a consent judgment. Below is a series of recent tax cases demonstrating Hunter’s disparate and more severe treatment, particularly considering his past-due taxes were paid with interest and penalties in October 2011:

- *United States v. Shaughnessy*, No. 1:22-cv-02811-CRC (D.D.C. Sept. 15, 2022): Shaughnessy, a Williams & Connolly *law partner* in D.C., and his wife failed to pay federal income tax for 11 years and owed nearly \$7.3 million. In April 2023, DOJ agreed to resolve the matter civilly with tax, penalty, and interest only by consent judgment for a total amount of \$7,258,580.52. Criminal charges were never filed.
- *United States v. Stone, et al.*, No. 21-cv-60825-RAR (S.D. Fla. Apr. 16, 2021): *Trump associate* Roger Stone and his wife failed to pay federal income tax over a six-year period (2007–2011 and 2018) and owed nearly \$2 million. In July 2022, DOJ resolved the matter civilly with tax, penalty, and interest only by consent judgment for a total amount of \$1,657,808.63. The agreement resolved and dismissed all claims stemming from a 2021 civil complaint against the Stones filed by the United States. Criminal charges were never filed.
- *United States v. Goggins*, No. 2:24-mj-11108-AME (D.N.J. Apr. 25, 2024): Goggins, a former senior VP and *general counsel* of a publicly traded corporation, pleaded guilty in April 2024 to only a four-count misdemeanor information (no felonies) charging him with willfully failing to file federal income-tax returns for tax years 2018 through 2021. For the years 2018 through 2021, Goggins earned total gross income of \$54 million (including stock). Goggins failed to file federal income-tax returns for those years. Goggins paid the IRS in full for restitution in the amount of \$3.1 million only when having to plead guilty.
- *United States v. Grimes*, No. 24-cr-00190-SB (C.D. Cal. Mar. 21, 2024): Milton Grimes, a Los Angeles attorney, was charged with one count of tax evasion (26 U.S.C. § 7201) for evading income tax due from 2010 to 2014 and four counts of failure to pay tax (26 U.S.C. § 7203) for 2018–2021, owing about \$2.4 million to IRS. These charges were filed for conduct much more severe than alleged against Hunter. Grimes allegedly engaged in a *scheme to thwart* the IRS’s levies by keeping his personal bank account balances low by routinely purchasing cashier’s checks and withdrawing cash from his business bank accounts. Grimes allegedly withdrew some \$16 million in funds from the accounts during those years. In addition, Grimes allegedly filed individual income-tax returns for tax years 2018 through 2021. Unlike Hunter, Grimes allegedly did not pay, and has not paid, the taxes that he self-reported he owes. Since September 2011, the IRS attempted to collect taxes owed, and issued at least 30 levies to financial accounts he controlled. The IRS never once secured payment.

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“in which the taxpayer was required to file a return for the year at issue” is where “the crime was committed.” CTM § 10.05[7] (2024). For individuals, tax returns must be filed in the district in which the taxpayer resides. *Id.*

- *United States v. Salman*, No. 4:23-cr-464 (N.D. Cal. Dec. 11, 2023): Salman was charged with four counts of tax evasion for falsifying individual income-tax returns for himself and his wife for years 2016 through 2019 by understating income and overstating expenses from their three businesses. On May 9, 2024, Salman pleaded guilty to *one count* of tax evasion (§ 7201) for tax year 2019 (in exchange for dismissing the rest of the counts), admitting he dodged and did not declare income tax over a four-year period by concealing more than \$3.4 million he earned from his businesses. In one year, Salman declared \$0 in taxable income, when in fact DOJ alleges he knew he earned substantially more income.
- *United States v. Lenzen*, No. 2:24-cr-90-WED (E.D. Wis. Apr. 30, 2024): Lenzen, a lawyer and former Husch Blackwell LLP partner, was charged with *two misdemeanors* (and no felony count) for failure to pay (§ 7203) income taxes for 2016 and 2020. In 2016, he received taxable income of \$1.16 million, and in 2020 received taxable income of \$2.24 million. On May 14, 2024, Lenzen pleaded guilty to two counts of willfully failing to pay income taxes and agreed to pay almost \$4 million in restitution to the IRS. Unlike Hunter, Lenzen communicated with an IRS revenue officer at the time and had not paid his taxes until it became a component of his plea agreement. Prosecutors have sought a custodial sentence of 16 months—eight months for each misdemeanor tax evasion count to which he pled guilty.

These are just a handful of examples. There are many other cases that are more difficult to identify because a person was allowed to resolve a tax investigation civilly and there is no record, because a criminal charge was never brought.

Nevertheless, after seeing how the prosecutors dealt with his family at the Delaware trial and how judicial rulings allowed that to occur, Hunter decided to save his family from that embarrassment and humiliation by pleading guilty rather than standing trial again.

## **V. NUMEROUS AND OBVIOUS LEGAL AND PROCEDURAL FLAWS EXIST IN, AND THAT SHOULD HAVE ENDED, HUNTER'S CASES**

### **A. Diversion Agreement Is Binding and Still in Effect**

To begin with, no charges should ever have been brought because the prosecutors had and still have a binding non-prosecution agreement with Hunter. To demonstrate just how disparate the treatment of Hunter has been, and how the normal course of legal protections for criminal defendants is not working in any case in which Hunter is involved, two different federal judges used two different theories to avoid enforcing the Diversion Agreement. In Delaware, the court stated no agreement was in effect because the Probation Officer—not at all a party to the Diversion Agreement—did not sign it, which the Court indicated was a *condition precedent*.

But in the California case, the court stated there was an agreement in effect because the prosecutors and Hunter were the only parties and they had signed it, but the signature of the Probation Officer was some unspoken *condition antecedent* to implementing the agreement in place—a theory that neither DOJ nor Hunter's counsel argued for or advocated (and that the Special Counsel opposed when asked about it at a pre-trial hearing in Los Angeles). Furthermore,

in the California case, there is solid precedent for a person challenging a breach of a plea or diversion agreement to take an immediate appeal. That makes sense since the purpose of such a non-prosecution agreement would be mooted if a person had to wait until after being prosecuted to vindicate that right. Despite the precedents, the Court of Appeals for the Ninth Circuit dismissed the appeal without addressing how it was avoiding its own case decisions allowing such a review. Similarly, the Court of Appeals for the Third Circuit, which also has precedent for a person seeking an interlocutory appeal from a denial of a motion raising separation of powers and improper federal spending, refused to apply those cases to review the issues before trial.

## **B. Unlawful Appointment and Designation as Special Counsel**

Equally voiding the charges filed in both cases, neither prosecution by Special Counsel Weiss is legally authorized or permitted because David Weiss was unlawfully appointed as Special Counsel and Congress has not appropriated funds for this investigation and prosecution. In appointing Weiss as Special Counsel, Attorney General Garland explained, “Mr. Weiss will also continue to serve as U.S. Attorney for the District of Delaware,” and Weiss has done so.<sup>78</sup> That appointment is flatly precluded by DOJ’s own regulations setting the “Qualifications of the Special Counsel,” which provide in relevant part, “The Special Counsel shall be selected from outside the United States Government.” 28 C.F.R. § 600.3. The Attorney General is bound by DOJ’s own regulations as to who is qualified to be a special counsel—a requirement that has not been met here.<sup>79</sup> This is another example of how Hunter’s case is not getting reviewed fairly and the law is not being applied properly.

In addition, after Trump challenged the legality of Special Counsels, a Supreme Court justice (Clarence Thomas) and a federal district court judge in Florida (Aileen Cannon) raised additional legal problems with the appointment of special counsels without a statute and spending authority to do so.<sup>80</sup> When Hunter raised those same issues and challenged Special Counsel Weiss’s appointment on similar grounds in his tax case (based on the recent opinions in Trump’s cases), the trial judge in California “struck” his motion as untimely, despite that the Thomas and Cannon decisions had just occurred—making an earlier filing on this issue impossible.<sup>81</sup> Once again, judges have applied a legal issue one way for Donald Trump and another way for Hunter Biden. President-elect Trump has said he will fire Special Counsel Jack Smith, who has been in charge of his cases, “on day one,” while saying nothing of Special Counsel David Weiss—whose appointment has an even weaker basis as someone who was appointed from *within* DOJ itself.

The very process that was supposed to ensure independence and objectivity has failed, as the Attorney General picked and chose among DOJ binding regulations to appoint Weiss as Special

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<sup>78</sup> Press Release, [Attorney General Merrick B. Garland Delivers a Statement](#), U.S. Dep’t of Just. (Aug. 11, 2023).

<sup>79</sup> After the Independent Counsel Reauthorization Act of 1994 expired in 1999, then Attorney General Janet Reno replaced procedures for appointing an independent counsel with these new regulations for selecting a special counsel.

<sup>80</sup> See *Trump v. United States*, 144 S. Ct. 2312, 2347–2355 (2024) (Thomas, J., concurring); *United States v. Trump*, 2024 WL 3404555 (S.D. Fla. July 15, 2024) (Cannon). Justice Thomas issued a concurring opinion raising a more fundamental antecedent question of whether the Special Counsel was validly appointed under the Appropriations Clause. 144 S. Ct. at 2347. Weeks later, guided by Justice Thomas’ opinion, Judge Cannon dismissed Special Counsel Smith’s classified documents indictment against President Trump because the Special Counsel was unconstitutionally appointed. And yet, Attorney General Garland relied upon the exact same authority to appoint the Special Counsels in both the Trump and Biden matters, and both appointments should thus be invalid for the same reason.

<sup>81</sup> *United States v. Biden*, No. 23-cr-00599-MCS (C.D. Cal.) (D.E. 203) (Aug. 19, 2024).

Counsel, who was not appointed from “outside” the government (let alone outside of DOJ). Weiss has used various excuses to maintain his role, his unauthorized spending of appropriations, and the unprecedented charges he filed against Hunter. In fact, as to funding, according to DOJ financial disclosures released in August 2024, in the first six months as Special Counsel, Weiss’ Office expenditures totaled about \$3.4 million in the investigations of Hunter.<sup>82</sup> That amount does not account for expenses for the Delaware trial in June, or preparation leading up to the California trial in September and also does not account for what must be an equal if not greater amount for the *three* years of investigation conducted by Weiss when he was U.S. Attorney. And again, despite precedent that logically allows someone to seek to enjoin the improper spending of unauthorized funds (waiting even for an acquittal cannot restore the unlawful spending that caused the prosecution to begin with), the judges operating in these high-profile and politically charged cases have made rulings to deny Hunter his right to such an immediate appeal.

### **C. Additional Government Errors and Misconduct in Hunter’s Criminal Cases Have Gone Unreviewed**

#### **i. Disclosures of Confidential Information by IRS Agents**

Among the most vocal public outcries against DOJ’s resolution with Hunter were two IRS case agents, Joseph Ziegler and Gary Shapley, who went beyond their congressional appearances to disclose protected investigation material and Hunter’s confidential tax return information. They were unabashed and consistently sought to assert pressure on the prosecutors to bring charges that the Delaware prosecutors believed were unwarranted. Not content to make their views known to experienced prosecutors, the agents, who had been investigating Hunter for years, decided to make their claims public by cooperating with MAGA Republican House chairmen while continuing to be employed by the U.S. government.

These agents did not stop there. Beginning in late May 2023, they initiated a publicity campaign to selectively disclose certain return information to scrutinize and discredit the deal Hunter and DOJ had made to two tax misdemeanor charges. They appeared on more than 20 nationally broadcast cable news shows and podcasts to continue their assault on Hunter and the deal that had been made.<sup>83</sup> These disclosures went beyond confirming the existence of an investigation, which would be bad enough; rather, the agents provided detailed allegations from the investigative case file regarding the specific tax years under investigation, amounts of deductions, nature of those deductions, and tax liability details for specific tax years and amounts thereof, and their allegations of wrongdoing about the tax returns which would be known to them after a review of the confidential return information in the investigative case file. Counsel for Shapley and Ziegler also participated in the media campaign as their clients’ spokespeople to communicate their clients’ accusations and to lodge allegations against the career prosecutors who ran the case and with whom they disagreed.

Despite Hunter’s counsel bringing this conduct, the applicable law and regulations to the attention of DOJ’s Inspector General and the IRS, and despite making motions in his cases to

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<sup>82</sup> Katelyn Polantz, [With Hunter Biden On Trial, Special Counsel Spending Grows](#), CNN (Aug. 23, 2024).

<sup>83</sup> *Biden v. United States IRS*, No. 23-cv-02711-RC, ECF 15, at 2 (D.D.C. 2023) (Am. Compl.).

address the agents' conduct as well as initiating a civil lawsuit against the United States and IRS<sup>84</sup> about the issue, these agents remain employed by the IRS, and no action seems to have been taken or at least announced by any agency for what they did. In fact, agents Shapley and Ziegler—along with the rest of the IRS Criminal Investigation investigative team—were not removed from the case and replaced with new agents until May 15, 2023.<sup>85</sup>

## **ii. Forum Shopping by the Special Counsel**

The investigative and prosecutorial errors did not end there. As mentioned above, the Special Counsel brought tax charges in California for tax years in which Hunter did not reside in California, and venue would not lie in that jurisdiction. The proper venue to raise allegations for nearly half the counts in the criminal tax case would be Washington, D.C., or Delaware, districts the Special Counsel did not want to file in—a fact U.S. Attorney Weiss knew well. It now has been disclosed that Weiss sought to have the U.S. Attorneys in D.C. and Los Angeles bring or join the tax case, and both declined to do so. In addition, when Weiss, as U.S. Attorney, agreed to a resolution to end the investigation without indictments, he sought to have Hunter waive venue as part of the June 2023 plea agreement to two tax misdemeanors. His filing the tax case in California was an example of what is often labeled “forum shopping.”

## **iii. Claiming “Overwhelming Evidence” to Justify Its Charges, Obtained Only After the Charges Were Filed**

Additionally, despite justifying their bringing more-serious charges after the Republican pressure was aimed at them by claiming they had “overwhelming evidence” to do so, it turns out that the Special Counsel did not even seek much of this “overwhelming evidence” (additional communications, lab tests to find drug remnants) until months *after* they brought their charges. As one example, the gun charges were brought in September 2023, but it was not until December, three months later, that the Special Counsel submitted a leather pouch (that it had sitting in storage since October 2018) to FBI forensic examiners to test for any drug residue. Critically, when asked by agents whether prosecutors also wanted “latent fingerprint” testing done on the pouch itself, prosecutors expressly declined and sought only drug residue results.

## **iv. Overlooking Evidence Alteration by the Gun Shop Seller**

Finally, leading up to the June 2024 gun trial in Delaware, it was disclosed in case discovery that numerous irregularities existed in the way the Special Counsel pursued the case. The government was aware that the gun shop owner, Ron Palimere, who approved selling Hunter the revolver on October 12, 2018 did so in violation of the requirement that a purchaser have and present a valid state-issued identification with proof of current address.<sup>86</sup> Hunter presented only his U.S. passport to the salesclerk, which has no address. The store accepted the passport as valid ID and made the sale anyway in violation of the requirements. Then, things got worse. Two of

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<sup>84</sup> Just recently, the Republican-led House of Representatives, sought to join Hunter's case against the IRS seemingly to help defend the IRS agents on whom the MAGA chairmen have relied. *See Biden v. United States IRS*, No. 23-cv-02711-RC, ECF 36 (D.D.C.) (Notice of Intent to File Amicus Curiae Brief by the U.S. House of Representatives).

<sup>85</sup> Decl. of Michael T. Batdorf, *Biden v. United States IRS*, No. 23-cv-02711-RC, ECF 20-5 (D.D.C. 2023).

<sup>86</sup> ATF Form 4473 makes clear at Lines 18.a and 18.b that a valid form of identification must include current residence address. In the absence of such an ID, the purchaser must present supplemental government-issued documentation.

the charges centered on Hunter’s falsely stating on a federal form (ATF 4473) he was not a user of or addicted to drugs—a form the gun store was required to keep. Sometime after the October 2018 sale, the gun shop owner altered the form to include that a “Delaware vehicle registration” had been presented by Hunter as a supplemental form of identification on October 12 (along with the passport). That never happened. Mr. Palimere then gave the doctored form to the ATF as part of the investigation in September 2021.

At the time Mr. Palimere did that, the government did not ask him and he did not volunteer what had happened. Only in pre-trial discovery was it revealed that Mr. Palimere realized the sale was in fact flawed, that a proper ID was not presented, and a change needed to be made after the fact. It also was revealed that, despite Mr. Palimere explaining he made that alteration in 2021 as a result of a media inquiry and to avoid “get[ting] in trouble,” his own WhatsApp messages indicate he was handing the 2018 form a year earlier and for a different reason. In 2020, he and others, including one of the very Delaware State Police troopers who investigated the original sale in 2018, were communicating about making Hunter’s purchase a campaign issue in the 2020 race to help Donald Trump—whom they supported. They even talked about coordinating with Donald Trump Jr. to expose the story. To this day, it does not appear that the Special Counsel nor any other law enforcement or regulatory agency has taken any action for these clearly improper events.<sup>87</sup>

#### **D. Special Counsel Weiss Has Never Explained Reneging on the Deal to Bring His Felony Charges When There Was No New Evidence or Favorable Law to Justify Prosecution, and Only Politics Came Into the Cases to Change the Results**

When Special Counsel Weiss sought an indictment for firearm charges in September 2023 against Hunter, there had been no new evidence and no new law in the five years that passed. The only change in the law undercut the charges in the wake of the Supreme Court’s 2022 Second Amendment decision in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, against finding Second Amendment violations for entire classes of people.<sup>88</sup> In fact, Special Counsel prosecutors engaged in evidentiary and investigatory missteps and oddities *after* seeking the firearm indictment by (i) seizing electronic evidence for the gun charges for the first time pursuant to a December 4, 2023 warrant, three months *after* they filed the charges supposedly based on enough evidence to do so; (ii) using a California grand jury in connection with the tax case to elicit evidence from Hunter’s ex-wife about his past drug use for already-indicted gun charges in Delaware; (iii) seeking a warrant in December 2023 to search for electronic (iCloud) evidence to support their § 922(g) charges (also three months after having charged them); and (iv) testing a leather pouch for minimal cocaine residue left by who knows who in October 2023 that law enforcement had in its possession for five years (since October 2018)—and did so without testing fingerprints on that pouch despite the FBI’s asking prosecutors about it. No court has ever required the prosecutors to explain any of these unusual actions.

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<sup>87</sup> The store, StarQuest Shooters & Survival Supply, appears to also still maintain its federal firearms license. No regulatory or other charges are publicly available or known.

<sup>88</sup> Several other federal courts have now also ruled that the statute under which Hunter was convicted is unconstitutional. See *United States v. Veasley*, 98 F.4th 906 (8th Cir. 2024); *United States v. Connelly*, No. 23-50312, 2024 WL 3963874 (5th Cir. Aug. 28, 2024); *United States v. Daniels*, 77 F.4th 337 (5th Cir. 2023).



The same is true for the tax case in California. DOJ prosecutors previously allowed civil dispositions or less serious charges for people whose misconduct was worse than anything Hunter had been charged with, and against those, unlike Hunter, who did not pay their taxes until after they were charged. Moreover, the Special Counsel's efforts to improperly punish Hunter can be seen by the contradictory positions he has taken in his cases. In Delaware, prosecutors contended that Hunter was a serious addict who made "dangerous" and terrible choices from 2015 to 2019. In California, they maintain that Hunter was "willful" in his failures to pay at the exact same time he was addicted and when addiction is a defense to "willfully" violating the law.

There is case precedent that requires a prosecutor who has changed his or her position without a change in the facts and law, and when outside forces or improper reasons may have come to bear on charging decisions, to explain those decisions. Yet, as with the other issues raised by Hunter's counsel, the Trump-appointed judges assigned to his criminal cases have allowed Special Counsel Weiss and his deputies to escape explaining their decision making.

### **E. Special Counsel Prosecutors Have Revived Republicans' Baseless FARA and Influence-Peddling Allegations and Continue to Expand Their Roving Investigation**

In an August 7, 2024 pretrial filing in the California tax case, the Special Counsel took the inflammatory, unnecessary, and inaccurate step of accusing Hunter of working with and being paid by a foreign Romanian principal in an attempt "to influence U.S. policy and public opinion" and "to influence U.S. government agencies."<sup>89</sup> Hunter had a lawful attorney-client relationship with the Romanian businessman through his work at the law firm Boies Schiller and was not the principal on nor the direct recipient of money from the real estate deal between his business partner and the foreign businessman. Even though the source of any income, for which taxes were not paid on time, is totally irrelevant to the actual charges, the prosecutors added this gratuitous allegation anyway to pollute the tax case with baseless foreign-influence allegations. While prosecutors stopped short of explicitly accusing Hunter of violating any foreign-lobbying or other laws—which he has never done and are not among the charges for which he faced trial—in doing so, the allegations fed red meat to MAGA Republicans, House GOP members, and their media allies who have been peddling these baseless and unsubstantiated claims of "influence peddling" by the Bidens and clamoring for a FARA investigation and charges against Hunter<sup>90</sup> and who, just hours after the filing, trumpeted the Special Counsel's misleading sentences to further accuse Hunter and his family of foreign corruption.<sup>91</sup>

While pursuing the false allegations of foreign-influence wrongdoing led nowhere, the Special Counsel seems to have given in to other demands to expand his investigation of Hunter, his family, and those close to them. Throughout 2024, Special Counsel prosecutors have sought information about financial support Hunter received in 2020 and 2021 around the time of the 2020

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<sup>89</sup> *United States v. Biden*, No. 23-cr-00599-MCS (C.D. Cal.) (D.E. 181 at 3) (Aug. 7, 2024) (Gov't Resp. to Biden's Fourth Mot. *in Limine* to Exclude Reference to Alleged Improper Political Influence and/or Corruption).

<sup>90</sup> Glenn Thrush & Ken Vogel, [Prosecutors Preview Aggressive Strategy in Hunter Biden's Tax Case](#), N.Y. Times (Aug. 7, 2024).

<sup>91</sup> [DOJ Says Hunter Biden Work With Romanian Businessmen Designed To Skirt US Law](#), The Hill (Aug. 8, 2024) (following prosecutors' filing, Chairman James Comer posted on X, "The Biden family's influence peddling schemes in Romania were documented in @GOPoversight's bank records memorandum in May 2023. Bank records don't lie.")

presidential election and questioned whether such support could be deemed improper political contributions. This latest inquiry is the exact demand that the disgruntled IRS agents alluded to in their statements to congressional committees and the media.<sup>92</sup> The results of this investigation expanding—the theory of which was rejected in the case of former Senator John Edwards<sup>93</sup>—are nevertheless likely to be a focal point of any final report the Special Counsel prepares for Congress, which will no doubt result in more demands for baseless charges against Hunter.

## **VI. IN SPITE OF THE ALREADY-UNPRECEDENTED CASES BROUGHT, DONALD TRUMP AND HIS REPUBLICAN ALLIES STATED DURING THE 2024 CAMPAIGN AND AFTER THAT THEY WANT TO CONTINUE TO “GO AFTER” HUNTER AND HAVE CALLED ON SPECIAL COUNSEL WEISS TO BRING MORE CASES AGAINST HUNTER AND HIS FAMILY**

In 2024, candidate Trump openly vowed revenge and retribution against his political opponents, first and foremost Hunter and his family, if re-elected.<sup>94</sup> For example, he has vowed he will “appoint a real special prosecutor to go after” the “entire Biden crime family,” “defund the DOJ” until it “comes to its senses,” and revive an executive order that allows him to fire Executive Branch employees without cause.<sup>95</sup> In response to direct questioning in an interview on live television about whether he would abuse the powers of the Presidency to get even with his political rivals, the most he was willing to offer was to act as a dictator only on “day one” of his presidency if elected again.

Trump’s outrage at DOJ’s failure to follow his demands has dangerously increased as he fends off his own criminal and fraud charges. At his 2024 campaign rallies, he has sworn “retribution” on his political rivals and the agencies he blames for helping them.<sup>96</sup> These are not abstract promises of vengeance—Trump literally described how he intends to misuse his authority to punish and cripple DOJ for not “locking up” Hunter Biden. Trump has railed against special counsels and stated he will “fire” Special Counsel Jack Smith on his first day back in office. However, he has said nothing about Special Counsel Weiss, whose investigation continues on the eve of the 2024 election even though Weiss’s appointment was even more dubious than Smith’s appointment.<sup>97</sup>

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<sup>92</sup> [Opening Statement of IRS Special Agent Gary Shapley](#), Hr’g Before H. Comm. on Ways & Means (Dec. 5, 2023).

<sup>93</sup> Contemporaneous [notes](#) of a January 12, 2022 meeting among IRS case agents, DOJ Tax, and the prosecutor formerly in charge of Hunter’s investigation (AUSA Lesley Wolf) indicate that the theory of such a campaign finance violation was weaker than the case charged against former Senator John Edwards and that AUSA Wolf did not “support investigating it.” See Devlin Barrett & Jacqueline Alemany, [Backroom Battles Between IRS Agents, Prosecutors in Hunter Biden Tax Case](#), Wash. Post (Oct. 3, 2023); Marcy Wheeler, [The Timeline of the Hunter Biden Investigation](#), Empty Wheel (Sept. 30, 2023).

<sup>94</sup> [Trump’s vows of ‘revenge’ against his opponents gain volume](#), Voice of America (June 10, 2024).

<sup>95</sup> See, e.g., [Trump’s Radical Second-Term Agenda Would Wield Executive Power in Unprecedented Ways](#), CNN (Nov. 16, 2023); [Trump’s Call to Defund DOJ, FBI Puts Senate, House GOP at Odds](#), The Hill (Apr. 6, 2023); [The Radical Strategy Behind Trump’s Promise to ‘Go After’ Biden](#), N.Y. Times (June 15, 2023); [Trump’s Unprecedented Campaign Pitch: Elect Me to Get Revenge on the Government](#), ABC News (July 14, 2023).

<sup>96</sup> Maggie Haberman et al., [Trump, Vowing ‘Retribution,’ Foretells a Second Term of Spite](#), N.Y. Times (Mar. 7, 2023) (at a recent rally, Trump stated: “I am your warrior. I am your justice. And for those who have been wronged and betrayed, I am your retribution.”).

<sup>97</sup> [Trump Says He’d ‘Fire’ Special Counsel Jack Smith In ‘Two Seconds’ If Elected Again](#), Wash. Post (Oct. 24, 2024).

There is no disputing that Trump has said his enemies list includes Hunter. In his own motion to dismiss Special Counsel Smith’s January 6 indictment for discriminatory prosecution, Trump insisted that he is only being prosecuted because he targeted Hunter in the first place.<sup>98</sup> In the month before the election, despite President Biden no longer being the candidate, Trump again falsely claimed that Hunter received \$3.5 million from the wife of Moscow’s former mayor.<sup>99</sup> The prospect that Trump will turn his vengeance on the Special Counsel prosecutors if they fail to take a harder line against Hunter no doubt exerts considerable pressure on them not to let up on Hunter.

With the election now decided, the threat against Hunter is real. Members of Congress, who showed their ability to impact the justice system in succeeding to undo the agreements DOJ reached in June 2023, also have indicated they will continue their campaign for prosecutors to go after Hunter with Trump at the helm. In June 2024, House Chairmen James Comer (Oversight) and Jim Jordan (Judiciary) made a desperate and baseless criminal referral for perjury charges against Hunter to Attorney General Garland after Hunter voluntarily provided complete answers in a five-hour congressional deposition in February 2024. Then in August 2024, the Committees formally concluded their impeachment inquiry with a 300-page report finding “overwhelming evidence” that “President Biden participated in a conspiracy to monetize his office of public trust to enrich his family”—despite not uncovering any evidence of any crime—and recommending he be impeached for abuse of power and obstruction.<sup>100</sup> Yet the report contains no proof that Vice President Biden engaged in any corrupt activity to benefit Hunter or his business partners, and Republicans have admitted they have no evidence that President Biden ordered any interference into DOJ’s investigation of Hunter. This did not stop Chairmen Comer and Jordan, though.

And following President-elect Trump’s electoral victory, Oversight Chairman Comer may finally get his greatest wish: to further weaponize the federal government against Mr. Trump’s political enemies, including resurrecting his investigation into Hunter Biden. In an interview just *two days* after the 2024 election, Comer was asked whether he planned to pursue further charges against Hunter in the wake of Trump’s election victory. He responded by saying he would “see what the new Trump Department of Justice wants to do” but added that further accountability is needed as soon as president-elect Trump returns to the White House.<sup>101</sup>

The same Republicans have stated the firearms conviction and tax charges are not enough. Following the firearm indictment, Chairman Comer said the charges “are a very small start, but unless U.S. Attorney Weiss investigates everyone involved in fraud schemes and influence peddling, it will be clear President Biden’s DOJ is protecting Hunter Biden and the big guy.”<sup>102</sup> Comer said Republicans are looking for further indictments of Hunter related to “money laundering, violation of the Foreign Agents Registration Act, tax evasion, the list goes on and on.” Rep. Andy Biggs (R-Ariz.) claimed “more serious charges” will be coming, and Sen. Marsha

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<sup>98</sup> See *United States v. Trump*, Trump Motion to Dismiss for Selective and Vindictive Prosecution, No. 1:23-cr-00257-TSC-1 (D.D.C. Oct. 23, 2023). Even Trump cannot fail to see the hypocrisy in championing the constitutional principle that no one should be subject to a selective or vindictive prosecution while threatening to pressure DOJ into doing that very thing to get back at those he feels have wronged him.

<sup>99</sup> [Trump Upgrades His Con To Category 5](#), Wash. Post (Op-Ed) (Oct. 11, 2024).

<sup>100</sup> [Report of the Impeachment Inquiry of Joseph R. Biden Jr.](#), H. Comm. on Oversight & Accountability, Comm. on the Judiciary, and Comm. on Ways & Means, 118th Cong., H.R. Res. 918 (Aug. 19, 2024).

<sup>101</sup> [James Comer Is Drooling at the Chance to Go After the Bidens Again](#), The New Republic (Nov. 7, 2024).

<sup>102</sup> [Republicans not satisfied with just Hunter Biden gun charges: ‘Very small start’](#), ABC News (Sept. 14, 2023).

Blackburn (R-Tenn.) said, “These should not be the last charges Hunter Biden faces.”<sup>103</sup> Trump lamented on Truth Social that the gun charges were “the only crime that Hunter Biden committed that does not implicate Crooked Joe Biden.”<sup>104</sup> Comer has stated DOJ must continue to “investigate[] everyone involved in the Bidens’ corrupt influence peddling schemes that generated over \$18 million in foreign payments to the Biden family.”<sup>105</sup> And following Hunter’s June 2024 conviction in Delaware, Rep. Elise Stefanik (R-N.Y.) stated, “Today is the first step in delivering accountability for the Biden Crime Family” and promised Republicans “will continue” to investigate the Bidens.<sup>106</sup> Even during the Democratic National Convention in August 2024, Trump again posted, “WHERE’S HUNTER?” as Vice President Harris was speaking.<sup>107</sup> And during a stump speech weeks before the election, Trump repeated the false and debunked claim that Hunter received \$3.5 million from the former mayor of Moscow’s wife.<sup>108</sup> It is clear Trump and fellow Republicans seem intent to see Hunter and members of his family prosecuted further.

With the 2024 election now decided, it seems likely that Special Counsel Weiss will remain in his position or be replaced in a Republican administration by someone even more willing to carry out President-elect Trump’s threats and retribution. Weiss’s willingness to (i) get around DOJ regulations when he was appointed as Special Counsel, (ii) ignore DOJ policies or norms in bringing felony gun and tax charges, and (iii) overlook other irregularities in the investigations are troubling signs of what might continue in the future, especially as the Republicans will maintain a majority in the House and now have one in the Senate, where they have shown their ability to try to impact the decisions of this prosecutor.

## VII. CONCLUSION

By any objective standard, there has never been an investigation and prosecution of someone in similar circumstances to those of Hunter Biden. The investigation (a) was initiated by an incumbent president and his personal attorney to try to influence the election against that person’s father; (b) involved deployment of Republican operatives to dig up ‘dirt’ and baseless claims from around the world to feed and influence prosecutors’ investigation; (c) included now-debunked Russian disinformation from an indicted Russian informant; (d) relied on blatant partisan interference by the opposing party in Congress to create an Oversight investigation and then to destroy a non-prosecution agreement negotiated and recommended by career prosecutors; (e) was advanced by the improper appointment of and spending by a Special Counsel (of millions of dollars) who then brought unprecedented misdemeanor and felony charges outside normal DOJ policies and precedents in two districts; (f) was pursued with numerous unusual procedures like prosecutors’ justifying bringing serious charges by saying they had “overwhelming” evidence to do so, but then seeking warrants for that evidence after they filed charges; and, perhaps most consequentially, and (g) involved the failure of courts in those jurisdictions (both at the trial and appellate levels) to follow precedents in addressing the charges brought against Hunter.

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<sup>103</sup> *Id.*

<sup>104</sup> [Republicans want it both ways: less gun control and Hunter Biden gun charges](#), The Guardian (Sept. 20, 2023).

<sup>105</sup> [Trump campaign, Republicans seize on Hunter Biden verdict to ramp up attacks on father](#), ABC (June 11, 2023).

<sup>106</sup> [Hunter Biden was convicted. That hasn’t stopped Republicans from echoing Trump’s attacks on the criminal justice system](#), PBS News (June 12, 2024).

<sup>107</sup> [Trump Deflects, Misleads in Real-Time Reaction to Harris Speech](#), Wash. Post (Aug. 23, 2024).

<sup>108</sup> [Trump Upgrades His Con To Category 5](#), Wash. Post (Op-Ed) (Oct. 11, 2024).

As a result of all these anomalies, Hunter has been investigated and prosecuted where others would not have been, subjected to sentencing far beyond precedents of others committing less serious offenses or where civil resolutions or consent judgments are normally sought—all on the basis of his mistakes, made while in the throes of serious drug addiction. There was nothing factually “willful” about his conduct; the individuals who engaged in far-more-serious misconduct relating to Hunter’s purchase and brief possession of a handgun have been given a pass; nothing about Hunter’s conduct (either his owning a firearm or his personal struggle with addiction) was “dangerous” or detrimental to the public; and Hunter paid his taxes in full with interest and penalties years ago. Despite individuals like Lev Parnas coming forward and testifying on the record that there never was, and has never been, a single shred of evidence to support the made-up conspiracy theories of Joe and Hunter Biden’s corruption in Ukraine, it has not stopped the MAGA-obsessed and Trump-fueled operation against Hunter and his family.<sup>109</sup>

Despite all that has transpired—a five-year federal investigation, an impeachment inquiry centered on Hunter’s foreign business dealings, countless hours of testimony by IRS agents whose investigation files were dumped publicly, congressional investigations in both the House and the Senate, and now two unprecedented indictments and prosecutions—numerous questions remain that have never been, and may never be, answered:

- (i) Why did U.S. Attorney Weiss suddenly renege on a plea agreement and diverted gun charge with no new evidence and no change in the facts or law?
- (ii) Why did Republicans get away with launching a baseless impeachment investigation without finding a shred of evidence of wrongdoing?
- (iii) Why were others who engaged in conduct with Hunter (business partners, tax preparers, gun salesmen) treated differently or given a pass when Hunter was charged criminally?
- (iv) Why was Hunter charged with three tax felonies and six tax misdemeanors when other taxpayers who committed similar or worse conduct received plea deals, civil resolutions, or less severe penalties?
- (v) Why was U.S. Attorney Weiss never asked to explain what changed that led to his seeking Special Counsel status and bringing unprecedented charges against Hunter after both he and Attorney General Garland declared that he had all the authority he needed?
- (vi) Why were IRS agents who worked on the investigation permitted to go on a public media campaign in 2023 and 2024?
- (vii) Why were Republicans not chastised for relying on confidential “informants” turned federally indicted criminals?

This paper (and its accompanying summary and timeline) describes in detail these many improper aspects of and abuses in the cases brought against Hunter Biden, how the system that is supposed to protect against these abuses has failed to do so for him, and the often-outrageous reasons that occurred in the process.

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<sup>109</sup> [Written Statement of Lev Parnas Before the House Oversight and Accountability Committee](#) on March 19, 2024. This account is discussed in depth in the documentary *From Russia With Lev*, produced by MSNBC’s Rachel Maddow and released in September 2024.

# **APPENDIX**

## APPENDIX

### THE POLITICAL PROSECUTIONS OF HUNTER BIDEN: A TIMELINE

- 2017**      **March** – Russian disinformation agent Alexander Smirnov, a paid FBI informant since 2010, provides non-public information to the FBI mischaracterizing Hunter’s involvement with Burisma and an alleged bribery scheme, memorialized in an official FBI record (form FD-1023).
- 2018**      **November** – IRS case agent Joseph Ziegler begins investigating Hunter Biden after reviewing bank reports in another case he was working on concerning a U.K. social media company.
- December** – Lev Parnas, an associate of Trump’s personal lawyer Rudy Giuliani, travels to Kiev, Ukraine (with partner Igor Fruman) on orders of Giuliani to locate and meet with former prosecutor general of Ukraine, Viktor Shokin to obtain “dirt” on the Bidens.
- December** – Lev Parnas attends White House Hannukah party with Giuliani, where President Trump tells Parnas: “I spoke with Giuliani, he tells me you are doing good things. Keep it up. I wish you well on your trip [to come up with dirt in Ukraine].”
- 2019**      As part of a deliberate campaign strategy, President Trump repeatedly makes false claims of wrongdoing and demands investigations of Hunter and candidate Joe Biden.
- January** – Giuliani speaks by phone with Viktor Shokin, former prosecutor general of Ukraine, to generate allegations (later debunked) about misconduct by Hunter and his family.
- January** – At a meeting in New York, Ukrainian prosecutor general Yuriy Lutsenko suggested to Giuliani that if the U.S. DOJ launched a tax investigation into Hunter, the prosecutor general’s office would share relevant information.
- January** – Another FBI informant and former Russian KGB agent (code named “Rollie”) briefed DOJ officials in Los Angeles, which included a presentation accusing Hunter and his business associates of engaging in money laundering, tax evasion, and fraud.
- January** – As suggested in Giuliani’s call with Ukrainian prosecutor Lutsenko, prosecutors in Delaware (under then-U.S. Attorney David Weiss, a Trump appointee) open an investigation into possible tax violations by Hunter Biden based on bank records they had obtained.



**March 19** – Trump-Giuliani media ally John Solomon (then EVP at *The Hill*) emailed Parnas: “I just got all 261 pages of bank records that the FBI gathered showing transfers from Burisma Holdings to a JP Morgan Account in NYC (via Cyprus) and then into Hunter Biden’s and Devon Archer’s personal accounts. . . .”

**March 28** – Giuliani hand-delivers a packet of disinformation documents, and his notes from his meeting with Lutsenko and call with Viktor Shokin, to President Trump’s Secretary of State, Mike Pompeo to initiate some investigation of Hunter and others.

**October 2** – State Department Inspector General Steve Linick provides the Giuliani-sponsored disinformation packet of documents to Congress and briefs members in an urgent session called to discuss the documents.

**October 6** – President Trump posts: “The Biden family was PAID OFF, pure and simple! [. . .] Sleepy Joe said he never spoke to the Ukrainian company, and then the picture came out where he was playing golf with the company boss and Hunter.”

**October 10** – President Trump posts: “Where is Hunter Biden? He has disappeared while the Fake News protects his Crooked daddy!”

**December 4** – Giuliani travels to Ukraine, to meet with Victor Shokin, Andreii Telizhenko (former Ukrainian diplomat), Andreii Derkach (Russian disinformation agent), and Kostiantyn Kulyk (former Ukrainian prosecutor) and received from Derkach material he falsely claimed showed additional wrongdoing by Hunter and others.

**2020**

**January 3** – DOJ Deputy Attorney General’s office emails U.S. Attorney for the W.D. of Pennsylvania for “a possible discreet assignment from OAG and ODAG.” The DAG instructed the U.S. Attorney to receive and process material concerning Hunter Biden, his family, and Ukraine—some of it supplied by Giuliani directly.

**February 10** – Attorney General Bill Barr confirmed DOJ had in fact established a process to receive information concerning Biden and Ukraine, including “anything Mr. Giuliani might provide.”

**August 20** – FBI Pittsburgh and U.S. Attorney’s Office for the W.D.P.A. conclude all reasonable steps have been completed regarding Smirnov’s allegations and that their assessment was the investigation should be closed.

**October 14** – In coordination with Giuliani and Robert Costello, who obtained and then accessed the data from a computer repairman who himself had improperly viewed and copied the material, the *New York Post* releases emails and data from the purported “Hunter Biden Laptop.” Days later, Trump tweets, “Hunter Biden’s laptop is a disaster for the entire Biden family, but especially for his father, Joe.”



**Mid-October** – With the election just weeks away, President Trump calls Attorney General Barr to ask about the investigation of Hunter, and according to Barr, President Trump asked him, “You know this stuff from Hunter Biden’s laptop?”

**October 18** – President Trump continues to obsess over the purported “Hunter Biden laptop” (tweeting, e.g., “Hunter Biden’s laptop is a disaster for the entire Biden family, but especially for his father, Joe. It is now a proven fact, and cannot be denied, that all of that info is the REAL DEAL.”)

**October 28** – President Trump continues to use Hunter for campaign purposes (tweeting e.g., “Why isn’t Twitter trending Biden corruption? It’s the biggest, and most credible, story anywhere in the world. Fake Trending!!!!”)

**December 9** – After losing the 2020 election, President Trump continues to use Hunter as a political attack (retweeting e.g., “10% of voters would have changed their vote if they knew about Hunter Biden”).

**December 27** – President Trump calls DOJ officials about efforts to challenge the election results and states: “You figure out what to do with Hunter Biden. That’s up to you,” but “people will criticize the DOJ if Hunter’s not investigated for real.”

**2021**      **January** – Attorney General Merrick Garland keeps in place Trump-appointed U.S. Attorney David Weiss to continue his investigation of Hunter Biden.

**October 18** – Hunter fully pays off all individual and corporate income taxes owed to the IRS with interests and penalties.

**2022**      **October 6** – *The Washington Post* reports a few unnamed federal agents are dissatisfied with the pace of the investigation of Hunter and had “gathered what they believe is sufficient evidence to charge him with tax crimes and a false statement related to a gun purchase,” and disclosed their discontent to media apparently to pressure career prosecutors to bring charges against Hunter.

**2023**      **March 31** – After being notified charges had been filed against him in Manhattan, Trump posted on Truth Social, “WHERE’S HUNTER?” The following week, during an address at Mar-a-Lago after his arraignment in New York, Trump again made wild allegations against Hunter and his family, claiming Hunter “[j]ust got \$10 million from China.”

**April 19** – Attorney for IRS agent (Shapley) is interviewed on CBS News to discuss his client’s allegations, stating “typical law enforcement steps were compromised because of political considerations” in a high-profile investigation by DOJ. CBS confirms the subject of the whistleblower claim is Hunter Biden.

**May 15** – Career prosecutors in the Delaware U.S. Attorney’s Office and DOJ Tax Division initiate a phone call with Hunter’s counsel and propose a non-prosecution disposition (NPA) to resolve any and all investigations of Hunter by DOJ.

**May 15** – Attorneys for IRS agent send a letter to House Republican chairmen notifying the Committees that the case agent and his entire investigative team “are being removed from the ongoing and sensitive investigation” of Hunter Biden, and complaining that the removal constituted improper retaliation by DOJ.

**May 18** – U.S. Attorney Weiss changes his position from what his career assistants had proposed and will no longer agree to an NPA. Instead, he amends the offer to a deferred prosecution agreement on the charge related to Hunter’s possession of a firearm, and no tax charges whatsoever.

**May 23** – U.S. Attorney Weiss changes his mind a second time and now insists that a resolution must include pleas to two failure-to-file tax misdemeanors (with a recommendation for probation) but would still include a diversion agreement to address Hunter’s brief 11-day possession of a handgun.

**May 24** – IRS agent (Shapley)—speaking publicly for first time—appears on CBS News to discuss his supervision of the Hunter Biden investigation and complains that “multiple steps [] were slow-walked” and “way outside the norm” of typical cases he had supervised in the past.

**May 26** – IRS agent (Shapley) testified for 6 hours before the House Ways & Means Committee regarding the Hunter Biden investigation. The testimony and taxpayer information discussed is supposed to be treated as “confidential.”

**June 19** – U.S. Attorney’s Office approves Hunter’s counsel statement that “. . . it is my understanding that the five-year investigation into Hunter is resolved.”

**June 20** – U.S. Attorney’s Office files papers in court spelling out the resolutions: a gun charge as part of a non-prosecution Diversion Agreement and Plea Agreement for two failure to file/pay tax misdemeanors. A hearing to resolve the investigation is set for July 26, 2023.

**June 20** – Trump posts repeatedly on Truth Social about Hunter’s plea agreement, decrying it as a “traffic ticket” and a “sweetheart deal.”

**June 23** – Ways and Means Committee Republicans vote to publicly release closed-door testimony from the two IRS case agents who, in the words of one Republican, “describe how the Biden Justice Department intervened and overstepped in a campaign to protect the son of Joe Biden by delaying, divulging and denying an ongoing investigation into Hunter Biden’s alleged tax crimes.”

**July 11** – Trump chides U.S. Attorney Weiss, posting: “Weiss is a COWARD, a smaller version of Bill Barr, who never had the courage to do what everyone knows should have been done. He gave out a traffic ticket instead of a death sentence.”

**July 19** – House Oversight & Accountability Committee, led by Chairman Comer, holds public hearing with IRS “whistleblowers” Shapley and Ziegler about the Hunter Biden criminal investigation.

**July 25** – GOP House Ways & Means Committee Chair files papers to intervene in the judicial process of Hunter’s plea and a pleading attaching the interview transcripts from the IRS agents to seek the agreement be rejected.

**July 26** – Hunter’s Delaware hearing occurs where the U.S. Attorney’s Office states, for the first time, that the agreement does not prohibit further charges in certain areas and the judge does not accept the agreement and seeks further briefing.

**July 27** – Republican House Chairmen claim credit for scuttling Hunter’s plea deal, with Oversight Chair Jim Comer declaring outside the Capitol, “I think that you’re seeing our investigation that’s shined a light on the many wrongdoings of the Biden family has picked up a lot of credibility today . . .” and Chairman Smith telling Fox News, “justice has been served.”

**August 9** – Despite both the U.S. Attorney and Attorney General saying for months that the U.S. Attorney had complete authority to bring any charges warranted in any jurisdiction, U.S. Attorney Weiss seeks and Attorney General Garland appoints him “Special Counsel” over all matters related to Hunter’s investigation.

**August 11** – Republican Chairmen take credit for getting Weiss appointed as Special Counsel, stating: “Announcement of a special counsel only happened because congressional GOP exposed the two-tiered judicial system by shining light onto the investigation into Hunter’s alleged financial crimes & the political interference that shielded both him & POTUS from scrutiny.”

**August 29** – Hunter’s lawyers meet with Special Counsel prosecutors Wise and Hines in Delaware to try to restore the agreed-to plea and diversion agreements.

**August 29** – FBI investigators with Weiss’s team interview Smirnov’s FBI handler about the 2020 FD-1023 and learn that Smirnov’s statements about Hunter Biden memorialized in a 2020 FD-1023 are false and entirely inaccurate.

**September 14** – Special Counsel Weiss brings 3 (unprecedented) felony gun charges against Hunter in Delaware (discarding the diversion he agreed to in June).

**September 14** – Following the firearm indictment, Republicans are unsatisfied and Republican House Oversight Chairman says the charges “are a very small start, but unless U.S. Attorney Weiss investigates everyone involved in fraud schemes and influence peddling, it will be clear President Biden’s DOJ is protecting Hunter Biden and the big guy.”

**October & November** – Republican House chairmen continue to put pressure on prosecutors by demanding and getting transcribed interviews with now Special Counsel Weiss as well as the U.S. Attorneys for D.C. and California, who declined to join in any prosecutions of Hunter back in 2022.

2024

**December 7** – Special Counsel Weiss files 9 tax-related charges, including felonies, in California (instead of the two failure to file misdemeanors agreed to in June, two and a half years after Hunter paid all of his taxes in full with interest and penalties).

**February 14** – Long after he was interviewed on numerous occasions and two cases were filed against Hunter, Alexander Smirnov is indicted by Special Counsel Weiss for perjury and obstruction related to his having lied to federal agents about Hunter.

**March 19** – Parnas testifies under oath before the House Oversight Committee that his allegations against Hunter and the Biden family, at the behest of Giuliani and others, were all based lies and not supported by a shred of evidence or truth.

**June 11** – Hunter is convicted by a jury on 3 felony gun charges in Delaware.

**June 12** – Following Hunter’s conviction, Republican members of Congress state, “Today is the first step in delivering accountability for the Biden Crime Family” and promise Republicans “will continue” to investigate the Bidens.

**Aug 14** – House Republican Report ends impeachment inquiry still with no evidence of wrongdoing

**August 23** – During Vice President Harris’ acceptance speech at the Democratic National Convention, Trump again posts, “WHERE’S HUNTER?”

**September 5** – Rather than expose his family to the same mistreatment by Special Counsel prosecutors that occurred during the Delaware trial, Hunter pleads guilty to the tax charges in Los Angeles.

**September 5** – Gary Shapley, one of the IRS-CI special agents under review for their conduct in the Biden investigation, through counsel, makes a statement that the plea “vindicated” the agent’s conduct in disclosing to the public taxpayer and other investigative information the year before.

**September 6** – Republican House Oversight Chair James Comer tweets: “Hunter Biden is finally admitting the obvious: he didn’t pay taxes on income he received by selling access to his father, Joe Biden. Our investigation has proven that the Bidens and their associates raked in \$27 million by cashing in on the Biden name around the world, including China and Russia.”

**November 7** – Asked whether he planned to pursue further charges against Hunter in the wake of Trump’s 2024 election victory, Oversight Chair James Comer stated he would wait to “see what the new Trump Department of Justice wants to do” but reiterated that further “accountability” was needed.