

United States Senate

WASHINGTON, DC 20510

September 19, 2022

The Honorable Merrick B. Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland:

We the undersigned write to request that United States Attorney David C. Weiss be extended special counsel protections and authorities to conduct the Hunter Biden investigation.

During your confirmation hearing, you promised to keep politics out of the Department of Justice (“DOJ”).¹ This promise has not been kept. On October 4, 2021, you unleashed DOJ’s National Security Division and the Federal Bureau of Investigation (“FBI”), among other criminal components, on millions of concerned parents across the country, who were exercising their First Amendment rights to be involved in decisions about their children’s education, including mask mandates, school closures, and the inclusion of critical race theory in school curricula.² We have received hundreds of pieces of correspondence detailing how your memorandum chilled constitutionally protected speech. To date, you have failed to rescind this memorandum despite the fact that it was primarily based on a false predicate: the now disavowed National School Board Association Letter.³

You have also taken numerous other steps that have shown the unfortunate politicization of the DOJ under your charge, including targeting conservative states and legislatures for common-sense ballot integrity measures,⁴ championing radical

¹ Merrick Garland, Sworn testimony before the Senate Committee on the Judiciary, The Nomination of the Honorable Merrick Brian Garland to be Attorney General of the United States (Feb. 22, 2021), available at <https://www.judiciary.senate.gov/imo/media/doc/SJC%20Testimony.final1.pdf>

² Memorandum from Attorney Gen. Merrick Garland, Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021), at <https://www.justice.gov/ag/page/file/1438986/download>.

³ Letter from NSBA Board of Directors to NSBA Members apologizing for Sept. 29, 2021 letter to President Biden concerning threats and act of violence against school board members (Oct. 22, 2021), at <https://www.nsba.org/-/media/letter-to-nsba-membership-oct-22-2021.pdf?la=en&hash=F1B1348E2B4071132A992687120409BF0D72C3C7>

⁴ Press Release, Dep’t. of Justice Off. of Public Affairs, *Justice Department Files Lawsuit Against the State of Georgia to Stop Racially Discriminatory Provisions of New Voting Law* (Jun. 25, 2021), <https://www.justice.gov/opa/pr/justice-department-files-lawsuit-against-state-georgia-stop-racially-discriminatory>

pieces of legislation that would federalize elections,⁵ and authorizing an unprecedented search warrant on a former President's home and current political rival shortly before a critical election without providing sufficient transparency to better understand the justification.

Inexplicably, DOJ has neglected to take measureable efforts to protect Supreme Court Justices, pro-life advocates, and pregnancy resource centers, particularly in the wake of the leak of the draft opinion in *Dobbs v. Jackson Women's Health Organization*. For months, radical abortion groups coordinated outside the homes of Supreme Court Justices to intimidate and influence the Justices in the discharge of their duties, a clear violation of federal law.⁶ Violent extremist groups like Jane's Revenge and Ruth Sent Us have incited violence in our communities, including taking credit for bombings of pregnancy resource centers in Wisconsin, New York, and Oregon.⁷ And, on June 8, 2022, an armed man, influenced by the leak of the Dobbs' draft opinion, attempted to murder Justice Kavanaugh outside of his home.⁸ Instead of taking measurable efforts to prevent and deter violence against Supreme Court Justices, pro-life advocates, and pregnancy resource centers, you opted to fan the flames of liberal outrage. Following the release of *Dobbs*, you claimed that the Supreme Court had ignored the Constitution and acted discriminately.⁹ Certainly, unhinged comments like this from our nation's top law enforcement official contribute to political division in our country.

As you know, the United States Attorney's Office for the District of Delaware—led by U.S. Attorney Weiss—has been investigating Hunter Biden.¹⁰ There is no way of knowing the entire scope of the investigation, but evidence seems to be mounting that Hunter Biden committed numerous federal crimes, including, but not limited

⁵ Press Release, Dep't. of Justice Off. of Public Affairs, *Attorney General Merrick B. Garland Delivered a Policy Address Regarding Voting Rights* (Jun. 11, 2021), <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivered-policy-address-regarding-voting-rights>; see also <https://nypost.com/2021/11/05/doj-sues-texas-over-election-law-that-enabled-democrats-to-flee-austin/>

⁶ Letter from Senate Minority Leader McConnell and other Senators to Attorney General Garland, Department of Justice (Jun. 15, 2022), available at https://www.grassley.senate.gov/imo/media/doc/mcconnell_grassley_etaltodojefortstoinfluencethecourts.pdf; see also 18 USC 1507.

⁷ Judith Levine, *Beyond Revenge, What Does Jane's Revenge Want?*, *The Intercept* (Jun. 16, 2022), <https://theintercept.com/2022/06/16/janes-revenge-abortion-rights/>.

⁸ Ellie Silverman, Dan Morse, Katie Mettler, and Devlin Barrett, *Man with gun is arrested near Brett Kavanaugh's home, officials say*, *Washington Post*, June 8, 2022, <https://www.washingtonpost.com/dc-md-va/2022/06/08/kavanaugh-threat-arrest-justice/>.

⁹ Press Release, Dep't. of Justice Off. of Public Affairs, *Attorney General Merrick B. Garland on Supreme Court Ruling in Dobbs v. Jackson Women's Health Organization* (Jun. 24, 2022), <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-statement-supreme-court-ruling-dobbs-v-jackson-women-s>

¹⁰ Evan Perez & Kara Scannell, *Federal investigation of Hunter Biden reaches critical juncture, sources say*, *CNN* (Jul. 20, 2022), <https://www.cnn.com/2022/07/20/politics/hunter-biden-investigation-critical-juncture/index.html>

to, tax fraud, money laundering, and foreign-lobbying violations. Indeed, Senators Grassley and Johnson have conducted an investigation for several years that has resulted in the public disclosure of facts that support those criminal concerns, including the disclosure of financial records showing the Biden family's close financial connections to the communist Chinese government and questionable foreign nationals. It is clear that Hunter Biden thrived off of a "pay to play" culture of access to his father, then Vice President Joe Biden in exchange for financial compensation.

Under Department of Justice regulations and federal law, you have the power to provide special counsel authorities and protections to U.S. Attorney Weiss.¹¹ Given that the investigation involves the President's son, we believe it is important to provide U.S. Attorney Weiss with special counsel authorities and protections to allow him to investigate an appropriate scope of potentially criminal conduct, avoid the appearance of impropriety, and provide additional assurances to the American people that the Hunter Biden investigation is free from political influence.

Recent news reports paint a concerning picture of the handling of the Hunter Biden investigation. As detailed by Senator Grassley, "highly credible" whistleblowers have come forward to detail a "widespread effort within the FBI to downplay or discredit negative information about" Hunter Biden.¹² Senator Grassley has also detailed allegations that the FBI shut down investigative activity and avenues of information relating to potentially criminal information on Hunter Biden before the 2020 presidential election. Instead of encouraging FBI and DOJ whistleblowers to report crimes and promote government transparency, you took the inexplicable step of chilling lawful whistleblower activity. Indeed, on August 30, 2022, on the heels of whistleblowers approaching Members of Congress, you issued a memorandum prohibiting DOJ and FBI employees from communicating with "Senators, Representatives, congressional committees, or congressional staff without advance coordination, consultation, and approval by OLA."¹³ Such a restriction is contrary to law and undermines the constitutional responsibility of Members of Congress to provide congressional oversight of the Executive Branch. Clearly, this memorandum will discourage and deter whistleblowers from sharing information to report potentially criminal activity and fraud, waste, and abuse by the government.

¹¹ 28 CFR §§ 600.1; 600.4-600.10;

¹² Letter from Ranking Member Grassley, Senate Committee on the Judiciary, to Merrick Garland, Attorney General, Department of Justice, and Christopher Wray, Director, Federal Bureau of Investigations (Jul. 25, 2022), https://www.grassley.senate.gov/imo/media/doc/grassley_to_justice_dept_fbi_-_political_bias.pdf

¹³ Bradford Betz, AG Garland issues memo on DOJ communications with Congress after retirements, whistleblower reports, Fox News (Aug. 30, 2022), <https://www.foxnews.com/politics/ag-garland-issues-memo-doj-communications-congress-retirements-whistleblower-reports>

Given the politicization of the DOJ under your watch and the importance of avoiding any appearance of impropriety, the undersigned request that you provide U.S. Attorney Weiss the full protections and authorities of a special counsel. This is one important action that you can take that will go a long way in restoring faith in our governmental institutions.



John Cornyn
U.S. Senator



Charles E. Grassley
U.S. Senator



Mitch McConnell
U.S. Senator



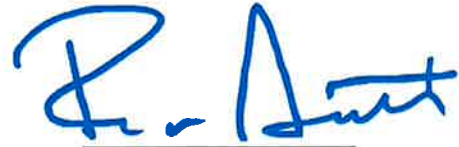
Ron Johnson
U.S. Senator



Lindsey O. Graham
U.S. Senator



Joni K. Ernst
U.S. Senator



Rick Scott
U.S. Senator



James Lankford
U.S. Senator



Tom Cotton
U.S. Senator



Marco Rubio
U.S. Senator



Josh Hawley
U.S. Senator



Mike Lee
U.S. Senator



Steve Daines
U.S. Senator



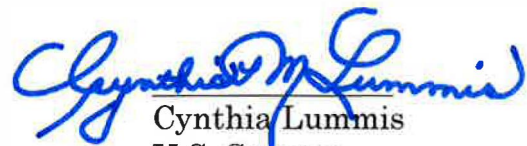
Ted Cruz
U.S. Senator



James E. Risch
U.S. Senator



Mike Crapo
U.S. Senator



Cynthia Lummis
U.S. Senator



Thom Tillis
U.S. Senator



Cindy Hyde-Smith
U.S. Senator



James Inhofe
U.S. Senator



Kevin Cramer
U.S. Senator



John Kennedy
U.S. Senator



Roger Marshall, M.D.
U.S. Senator



Dan Sullivan
U.S. Senator



Shelley Moore Capito
U.S. Senator



Tim Scott
U.S. Senator



Bill Cassidy, M.D.
U.S. Senator



John Thune
U.S. Senator



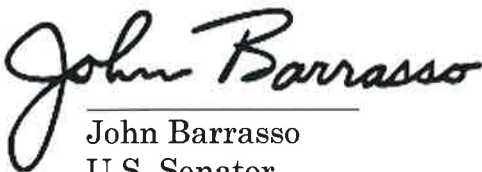
Bill Hagerty
U.S. Senator



John Hoeven
U.S. Senator



Marsha Blackburn
U.S. Senator



John Barrasso
U.S. Senator



Ben Sasse
U.S. Senator