



U.S. Department of Justice

Office of Legal Counsel

Washington, D.C. 20530

August 17, 2020

Austin R. Evers
Executive Director
American Oversight
foia@americanoversight.org

**Re: FOIA Tracking No. FY19-211;
American Oversight v. Dep't of Justice, D.D.C. No. 19-cv-3540**

Dear Mr. Evers:

This letter partially responds to your September 4, 2019 Freedom of Information Act ("FOIA") request to the Office of Legal Counsel ("OLC") and others seeking "email communications . . . sent by the [listed] officials . . . containing any of the [listed] key terms." As you know, the request was assigned the tracking number FY19-211, is also the subject of the above-captioned litigation, and has been narrowed in certain ways by negotiation through counsel.

OLC has completed a search of its records and, as agreed through counsel, OLC has processed a portion of the identified responsive records. Since the last letter in this matter, OLC has processed 95 records totaling 391 pages.

We have enclosed 70 records totaling 259 pages with some material redacted pursuant to FOIA Exemption Five, 5 U.S.C. § 552(b)(5) or pursuant to FOIA Exemption Six, 5 U.S.C. § 552(b)(6). For your information, Exemption Five exempts material protected by the attorney-client, deliberative process, and presidential communications privileges, as well as the attorney work product doctrine and other privileges. Exemption Six exempts material the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

We have referred 11 records totaling 24 pages to one other entity for direct response to you. We have referred the records to the Office of Information Policy, which may be reached as follows: Douglas Hibbard, Chief, Initial Request Staff, Office of Information Policy, Department of Justice, Suite 11050, 1425 New York Avenue, N.W., Washington, D.C. 20530, Tel: 202-514-FOIA.

We have withheld in full the remaining 14 records totaling 108 pages, pursuant to FOIA Exemption Five, 5 U.S.C. § 552(b)(5). For your information, Exemption Five exempts material protected by the attorney-client, deliberative process, and presidential communications privileges, as well as the attorney work product doctrine and other privileges. We have

determined that none of the withheld material is appropriate for discretionary release. We are continuing to process a small number of remaining responsive records.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Your counsel may contact Andrew Freidah of the Civil Division, Federal Programs Branch, at 202-305-0879 or at andrew.f.freidah@usdoj.gov, to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services ("OGIS") at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Although your request is the subject of ongoing litigation, and administrative appeals are not ordinarily acted upon in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal. You may administratively appeal by writing to the Director, Office of Information Policy ("OIP"), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,


for Paul P. Colborn
Special Counsel

Enclosures

cc: Andrew Freidah, Trial Attorney
Civil Division, Federal Programs Branch

Daniel McGrath, Counsel
American Oversight

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Friday, May 17, 2019 5:25 PM
To: Gannon, Curtis E. (OLC); (b) (6) (OLC); Mascott, Jennifer (OLC)
Cc: Paul P Colborn (OLC) (b) (6)
Subject: FW:
Attachments: JN Ltr to McGahn 05.17.19.pdf

From: Purpura, Michael M. EOP/WHO <(b) (6)>
Sent: Friday, May 17, 2019 5:23 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject:

Michael M. Purpura
Deputy Counsel to the President
Office of White House Counsel

(b) (6)
O: (b) (6) | C: (b) (6)

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Sixteenth Congress

May 17, 2019

Donald F. McGahn II, Esq.
c/o William A. Burck, Esq.
Quinn Emanuel Urquhart & Sullivan
1300 I St. NW
Suite 9000
Washington, D.C. 20005

Dear Mr. McGahn:

The Committee on the Judiciary will hold a hearing on “Oversight of the Report by Special Counsel Robert S. Mueller, III: Former White House Counsel Donald F. McGahn, II,” on May 21, 2019 at 10:00 a.m., in Room 2141 of the Rayburn House Office Building. As you know, your presence is required pursuant to the subpoena the Committee served on you compelling your testimony for that date.¹

On May 7, 2019, I wrote to your counsel and made clear that, absent a court order directing otherwise, you must appear or the Committee will proceed to hold you in contempt.² We have received no information indicating that any such order has been sought, much less obtained. In fact, the Committee has not even been provided a Department of Justice, Office of Legal Counsel (OLC) opinion articulating a legitimate legal basis that prevents you from providing testimony about the subject matters disclosed in the Special Counsel’s report. This is not surprising given that you have already discussed these subjects at length as part of an investigation for which the President expressly waived privilege, has publicly commented on, and even has disputed not only your account of the relevant events but also your good faith.

As I have previously stated, the Committee intends to focus on the very topics covered in the Special Counsel’s Report. For that reason, there can be no valid assertion of executive privilege given that President Trump “declined to assert any privilege over Mr. McGahn’s testimony,”³ or over any portion of the Report itself.⁴

¹ Subpoena by Authority of the House of Representatives of the United States of America to Donald F. McGahn for documents and testimony, signed by Representative Jerrold Nadler, April 22, 2019. Enclosed please find additional information related to your testimony.

² Letter to William A. Burck from Chairman Jerrold Nadler (May 7, 2019).

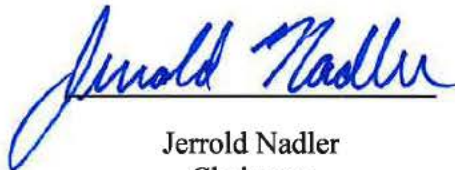
³ Michael S. Schmidt & Maggie Haberman, *White House Counsel, Don McGahn, Has Cooperated Extensively in Mueller Inquiry*, N.Y. TIMES, Aug. 18, 2018.

⁴ *In re Sealed Case*, 121 F.3d 729, 741 (D.C. Cir. 1997) (holding that publication of information “waives [] privileges for the document or information specifically release[d].”).

Moreover, the subject of your testimony is critical to this Committee's ongoing investigative, oversight, and legislative efforts.⁵ Since the Committee's last letter, the President on May 11, 2019, tweeted: "I was NOT going to fire Bob Mueller, and did not fire Bob Mueller. . . . Actually, Don McGahn had a much better chance of being fired than Mueller. Never a big fan!" The President's personal attorney, Rudolph Giuliani, likewise previously stated in an interview that your accounting of events "can't be taken at face value" and "could be the product of an inaccurate recollection or could be the product of something else."⁶ Your testimony regarding these events—which the President and his counsel now unequivocally dispute—is thus critical to the Committee's ongoing investigation. In addition, the Committee is committed to providing you the opportunity to address the scurrilous allegations by the President and his counsel that you were not truthful or accurate in your interviews with the Special Counsel.

For all these reasons, the Committee looks forward to your testimony on May 21. To be clear, even if the President—supported by an OLC Opinion—invokes executive privilege over your testimony, and you decide to abide by that improper assertion, you are still required under the law and the penalty of contempt to "appear before the Committee to provide testimony, and invoke executive privilege where appropriate."⁷

Sincerely,



Jerrold Nadler
Chairman
House Committee on the Judiciary

cc: Doug Collins
Ranking Member
House Committee on the Judiciary

⁵ The Committee's need for this information is indisputably of the highest order, including fulfilling its constitutionally mandated legislative and oversight duties relating to election security, and investigating allegations of *Presidential* obstruction of justice. See Resolution Recommending that the House of Representatives Find William P. Barr, Attorney General, U.S. Department of Justice, In Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on the Judiciary, Committee on the Judiciary, House, 116th Cong. 1. (2019).

⁶ Michael S. Schmidt and Maggie Haberman, *Giuliani Attacks McGahn's Account to Mueller*, N.Y. TIMES, Apr. 19, 2019.

⁷ See Mem. Op., *Comm. on Judiciary v. Miers*, No. 08-cv-0409-JDB (D.D.C. Jul. 31, 2008), at 106.

Oversight of the Report by Special Counsel Robert S. Mueller, III:
Former White House Counsel Donald F. McGahn, II
May 21, 2019 at 10:00 a.m.
Room 2141 of the Rayburn House Office Building

You are welcome to prepare a written statement of proposed testimony prior to your appearance. The written statement may be as extensive as you wish and will be included in the hearing record. To allow sufficient time for questions at the hearing, please briefly highlight the most significant points of the written statement in an oral presentation lasting five minutes or less. Oral testimony at the hearing, including answers to questions submitted for the record, will be printed as part of the verbatim record of the hearing.

To enable the Committee to prepare for the hearing, please submit an electronic copy of any written statement, together with any supplemental materials; a current curriculum vitae; and a completed Truth in Testimony Disclosure Form (Disclosure Form). Your written statement and CV should be prepared in Microsoft Word or Adobe Acrobat. Please number all pages of the written statement, and attach a cover page with your name, position, date, and the title of the hearing.

Be advised that your written statement, CV, and Disclosure Form will be made part of the public record and posted on the Committee's website pursuant to House Rule XI cl. 2(g)(5). In addition, should you want any portion of these documents to be redacted, please submit a separate redacted version of such document(s). These documents should be emailed to Madeline Strasser on my staff at (b) (6).

If you have any questions or concerns, please contact Arya Hariharan, Deputy Chief Oversight Counsel, on my staff at 202-225-3951.

Truth in Testimony Disclosure Form

In accordance with Rule XI, clause 2(g)(5)*, of the *Rules of the House of Representatives*, witnesses are asked to disclose the following information. Please complete this form electronically by filling in the provided blanks.

Committee: _____

Subcommittee: _____

Hearing Date: _____

Hearing Subject:

Witness Name: _____

Position/Title: _____

Witness Type: ☐ Governmental ☐ Non-governmental

Are you representing yourself or an organization? ☐ Self ☐ Organization

If you are representing an organization, please list what entity or entities you are representing:

If you are a non-governmental witness, please list any federal grants or contracts (including subgrants or subcontracts) related to the hearing's subject matter that you or the organization(s) you represent at this hearing received in the current calendar year and previous two calendar years. Include the source and amount of each grant or contract. *If necessary, attach additional sheet(s) to provide more information.*

If you are a non-governmental witness, please list any contracts or payments originating with a foreign government and related to the hearing's subject matter that you or the organization(s) you represent at this hearing received in the current year and previous two calendar years. Include the amount and country of origin of each contract or payment. *If necessary, attach additional sheet(s) to provide more information.*

False Statements Certification

Knowingly providing material false information to this committee/subcommittee, or knowingly concealing material information from this committee/subcommittee, is a crime (18 U.S.C. § 1001). This form will be made part of the hearing record.

Witness signature

Date

Please attach, when applicable, the following documents to this disclosure. Check the box(es) to acknowledge that you have done so.

- ☐ Written statement of proposed testimony
- ☐ Curriculum vitae or biography

*Rule XI, clause 2(g)(5), of the U.S. House of Representatives provides:

(5)(A) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof.

(B) In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of any Federal grants or contracts, or contracts or payments originating with a foreign government, received during the current calendar year or either of the two previous calendar years by the witness or by an entity represented by the witness and related to the subject matter of the hearing.

(C) The disclosure referred to in subdivision (B) shall include—

(i) the amount and source of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) related to the subject matter of the hearing; and

(ii) the amount and country of origin of any payment or contract related to the subject matter of the hearing originating with a foreign government.

(D) Such statements, with appropriate redactions to protect the privacy or security of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Friday, May 31, 2019 1:48 PM
To: Whitaker, Henry C. (OLC)
Subject: FW: (b) (5)
Attachments: (b) (5)
(b) (5).pdf; (b) (5)
(b) (5)
(b) (5).pdf

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, May 13, 2019 8:41 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: (b) (5)

Yes. Give me a moment and I'll come up with summaries.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, May 13, 2019 8:30 PM
To: (b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: (b) (5)

Have you looked at the (b) (5) articles cited on page 2 of the (b) (5) PDF?

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, May 13, 2019 8:23 PM
To: (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: (b) (5) t

Thanks. Will take a look.

From: (b) (6) (OLC)
Sent: Monday, May 13, 2019 8:21 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: (b) (5)

Attached is the article (b) (5)
(b) (5). It's also located at (b) (5).

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Monday, May 13, 2019 7:46 PM

To: (b) (6) (OLC) <(b) (6)>

Subject: RE: (b) (5)

Whatever is simpler. Stop by now or tomorrow to discuss. Or send me something, if there is something in the can.

From: (b) (6) (OLC)

Sent: Monday, May 13, 2019 6:47 PM

To: Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: (b) (5)

Steve, I may have misread your email. Are we supposed to discuss this today, or do I need to send a written product?

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Saturday, May 11, 2019 11:08 AM

To: (b) (6) (OLC) <(b) (6)>

Subject: RE: (b) (5)

Not this-weekend tight. Monday is fine. And we can talk then.

From: (b) (6) (OLC) <(b) (6)>

Sent: Saturday, May 11, 2019 10:34 AM

To: Engel, Steven A. (OLC) <(b) (6)>

Subject: Re: (b) (5)

I started writing a more extensive memo on the subject but it will still need some work.

My PIV card became desensitized and JMD took it to order a new one, so I don't have a way to log in remotely at the moment. I won't be back in Washington until late Sunday night. Is this on a tight turnaround?

Sent from my iPhone

On May 11, 2019, at 6:17 AM, Engel, Steven A. (OLC) <(b) (6)> wrote:

(b) (6): Did you say that you had done additional, more detailed work on the subject? If so, can you share, when you get a chance? There's some additional interest in working up our view on

(b) (5)

(b) (5). Steve

Sent from my iPad

On Mar 25, 2019, at 9:49 AM, (b) (6) (OLC) <(b) (6)> wrote:

I don't have titles for the (b) (5) memoranda, only generic references. (b) (5)

(b) (5)
(b) (5)
(b) (5)
(b) (5)
(b) (5)

I've attached the documents with those references.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, March 25, 2019 9:23 AM
To: (b) (6) (OLC) <(b) (6)>
Subject: RE: (b) (5)

Got it. thanks. what are the titles of the memoranda?

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, March 25, 2019 9:22 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: (b) (5)

We have daybooks from 1951 and 1961. After I searched Perceptive and pulled up the digital daybooks to check for possible attachments, I gave Richard the materials I found referencing the two memoranda and he used the daybooks to go back about a year from the 1951 memoranda, and forward about a year from the 1961 memorandum, without any luck. One of the memoranda is from the Department of Justice, so it may be in a different database. I figured I'd set aside time this week to look again myself.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, March 25, 2019 8:46 AM
To: (b) (6) (OLC) <(b) (6)>
Subject: RE: (b) (5)

Thanks! didn't have the chance to review over the weekend, but will take a look today. Do we have a daybooks from 1951 and 1961?

From: (b) (6) (OLC) <(b) (6)>
Sent: Saturday, March 23, 2019 6:07 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: (b) (5)

Steve,

Here is a short overview of (b) (5). In sum, (b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

I am happy to complete something more thorough and formal, and have a working memorandum that is significantly more comprehensive. Given the timeframe provided and number of legal issues involved, this overview seemed like the best option right now. Providing stronger conclusions on the various issues presented below will require additional time for detailed research. And, in the end, (b) (5)

(b) (5)

Please note that I found references in Perceptive to two memoranda (b) (5) —one this Office was preparing in 1961 and one prepared by the Department of Justice in 1951. However, I was unable to locate those memoranda even after considerable effort.

Thanks,

(b) (6)

(b) (5)

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)
[Redacted text block]

[Redacted text]

[Redacted text block]

(b) (6)
Attorney-Adviser, Office of Legal Counsel
U.S. Department of Justice, (b) (6)
O: (b) (6)
[Redacted text]

[Redacted text block]

[1] (b) (5)
[Redacted text block]

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, June 17, 2019 7:04 PM
To: Gannon, Curtis E. (OLC)
Cc: Colborn, Paul P (OLC)
Subject: Re: Draft Letter (b) (5) - Privileged and Confidential

I'm not sure about your second sentence. (b) (5)

Sent from my iPad

On Jun 17, 2019, at 11:49 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

Fine. (b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, June 17, 2019 6:46 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)>
Subject: Re: Draft Letter (b) (5) - Privileged and Confidential

(b) (5)

Sent from my iPad

On Jun 17, 2019, at 11:40 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

Great. Thanks. We'll send the comments on the letter.

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, June 17, 2019 6:18 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)>
Subject: Re: Draft Letter (b) (5) - Privileged and Confidential

I'm OK with these edits. (b) (5)

(b) (5)

(b) (5)

Let me know if we need to talk further. But the bottom line is, subject to this caveat, I'm OK with the suggested edits.

Sent from my iPad

On Jun 17, 2019, at 8:31 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

Steve,

If you are able, I think you should look at our proposed edits to the draft letter (b) (5) (attached). The draft (b) (5).

In a large comment bubble on the first page, we explain why we're proposing tweaks to the draft's (b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

□

||

(b) (5)

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, July 10, 2019 10:43 AM
To: Gannon, Curtis E. (OLC)
Subject: FW: Conway Immunity
Attachments: DRAFT OLC Letter re Conway Immunity 7.10.docx; 2019_06_26_Conway Subpoena.pdf; Cipollone Response to OSC Report.pdf; COR Invitation Conway.pdf; OSC Report Conway.pdf; PAC Letter 06.24.2019.pdf

Do you want to take the first crack?

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, July 10, 2019 10:09 AM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: Conway Immunity

Steve & Curtis,

Attached for your review is a draft letter opinion on testimonial immunity for Conway. Paul has reviewed. I'm also attaching the subpoena, the Office of Special Counsel report, WHCO's initial response, the initial hearing invitation, and the WHCO response declining the invitation.

Thanks,

(b) (6)

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Tuesday, July 9, 2019 1:25 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>; Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: Conway Immunity

Letter opinion.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, July 09, 2019 1:24 PM
To: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: Conway Immunity

OK. Are we thinking this will be a memorandum opinion or a letter opinion?

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Tuesday, July 9, 2019 1:17 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: Conway Immunity

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Monday, July 08, 2019 2:44 PM

To: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: Conway Immunity

fine

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Monday, July 8, 2019 2:43 PM

To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: Conway Immunity

(b) (5)

From: (b) (6) (OLC) <(b) (6)>

Sent: Monday, July 08, 2019 2:37 PM

To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Cc: Colborn, Paul P (OLC) <(b) (6)>

Subject: Conway Immunity

Hi Steve & Curtis,

Paul and I just had a call (b) (5)

Thanks,

(b) (6)

(b) (6)

Office of Legal Counsel

United States Department of Justice

(b) (6)

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Kellyanne Conway,
Counselor to the President

You are hereby commanded to be and appear before the
Committee on Oversight and Reform

of the House of Representatives of the United States at the place, date, and time specified below.

- ☐ to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____
Date: _____ Time: _____

- ☐ to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

- ☒ to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: 2154 Rayburn House Office Building, Washington, D.C. 20515
Date: 07/15/2019 Time: 4:00 P.M.

To any authorized staff member or the U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at
the city of Washington, D.C. this 26 day of June, 2019

Attest,

Clerk

Chairman or Authorized Member

THE WHITE HOUSE
WASHINGTON

June 11, 2019

The Honorable Henry Kerner
United States Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

Dear Special Counsel Kerner:

I write to submit an initial response to the draft Office of Special Counsel Report concerning Assistant to the President and Counselor to the President Kellyanne Conway, OSC File Nos. HA-19-0631 & HA-19-3395, dated May 30, 2019 (“Report”). OSC’s draft Report is based on multiple fundamental legal and factual errors, makes unfair and unsupported claims against a close adviser to the President, is the product of a blatantly unfair process that ignored statutory notice requirements, and has been influenced by various inappropriate considerations. As a result, the current Report would serve only to undermine public confidence in OSC and its procedures. At 5:00 pm on May 29, 2019, OSC provided the White House with a 17-page report raising numerous unsubstantiated allegations spanning many months, many of which had never been raised by OSC through the appropriate procedure. OSC then demanded a response by 9:00 a.m. the following morning. As you later acknowledged, OSC’s actions were prompted by your desire to respond to press questions concerning a media report that day about comments that Ms. Conway had allegedly made and by the purported personal “offense” that you took to those comments—even though you made no effort to investigate before rushing to judgment. OSC’s patently unreasonable demand for an overnight response, standing alone, shows that the Report was the product of a fatally flawed process.

Indeed, the Report is based on numerous grave legal, factual, and procedural errors. First, even assuming that the Hatch Act applies to the most senior advisers to the President in the White House, OSC has violated its statutory obligation to provide Ms. Conway a reasonable opportunity to respond, violated Ms. Conway’s due process rights, and abused its discretion by issuing a Report tainted by inappropriate external influences. Second, OSC’s overbroad and unsupported interpretation of the Hatch Act risks violating Ms. Conway’s First Amendment rights and chills the free speech of all government employees. In fact, OSC has no legal authority to promulgate guidance on social media use that it treats effectively as binding rules in order to enforce its overbroad interpretation of the Act. Third, contrary to your letter, Ms. Conway’s Twitter account and her media appearances do not violate even the standards used by OSC itself. Worst of all, OSC’s “call” upon the President “to remove Ms. Conway from her federal position immediately” is as outrageous as it is unprecedented. OSC’s overreaching recommendation is wholly unsupported by any statute or the Constitution. Additionally, it appears that OSC has not been applying its vague standards evenhandedly across Democratic and Republican administrations.

The White House takes seriously the principles codified in the Hatch Act and has continued to take affirmative steps to ensure compliance. At the same time, the White House must ensure that OSC exercises its significant authority in an appropriate and neutral manner. We also have a duty to safeguard the fundamental constitutional rights of not only White House employees, but all employees within the Executive Branch. Based on the numerous errors in the Report and the flawed process under which it was issued, we ask that you withdraw and retract the Report and continue the dialogue with this office that should have taken place and that could have avoided many of the errors in the current draft.

If you choose not to withdraw the Report, we will need additional information to prepare our full response. We ask that you provide this information, detailed below, by June 21, 2019. At a minimum, in fairness to Ms. Conway, release of the draft Report should wait until we have had the opportunity to provide a final response and OSC has had an opportunity to fully consider that response. You have assured us several times that you will review our response and incorporate it, provide whatever additional process is necessary, meet with us to discuss these matters, and refrain from a further rush to judgment.

Please contact us after you have reviewed this letter to discuss next steps, including whether you will withdraw the Report and, if not, when you will provide the information we request. I also ask that we meet as soon as possible and no later than June 26, 2019, to discuss the concerns raised in this letter.

I. OSC's Investigation And Conclusions Are Tainted By Lack of Due Process and Inappropriate External Influence.

The lack of due process that OSC provided in preparing this Report indicates a complete disregard for the fundamental rights of individuals serving in the Executive Branch and raises serious concerns regarding OSC's current investigatory practices. On May 29, 2019, at 5:03 pm, Ms. Ana Galindo-Marrone, Chief of the OSC Hatch Act Unit, sent the Report to the White House's Designated Ethics Official. After providing the Report, Ms. Galindo-Marrone requested any comments by 9:00 am the following morning (May 30), providing less than 16 hours overnight to respond to a 17-page report containing over a dozen allegations, spanning across more than 8 months. OSC had never before informed the White House or Ms. Conway that it was investigating many of the specific allegations in the Report. Moreover, when the White House first received the Report on May 29, OSC had already post-dated the Report to May 30, 2019—the date by which OSC had requested comments from the White House—indicating that OSC had no actual interest in conducting further investigation or analysis, regardless of any comments received from the White House or Ms. Conway. OSC's patently unreasonable demand for an overnight response to a report that had been months in the making failed to provide basic due process and also conflicted with the express statutory command that OSC is generally required to provide employees "a reasonable time to answer orally and in writing." 5 U.S.C. § 1215(a)(2)(A); *see also Schroder v. City of New York*, 371 U.S. 208, 211 (1962) (describing "notice" as "[a]n elementary and fundamental requirement of due process").

The White House had been actively engaging with OSC in a productive dialogue when OSC unilaterally, without notice, terminated those discussions by sending the Report to the White House, making the draconian and patently ridiculous recommendation that the President remove one of his closest advisers. OSC's position appears to be that this unilateral termination was justifiable because OSC had provided notice of each allegation contained in the Report. This is false. Not only did OSC fail to provide notice of each allegation, it also abruptly terminated, without explanation, a good faith dialogue with our office.

Officials from this office met with officials from your office on March 19 and then again on March 28, 2019. During these meetings, your issues relating to Ms. Conway focused on her use of Twitter, and we responded at the time by raising our legal and factual objections to your initial concerns. Your April 9, 2019 letter in response failed adequately to address our primary legal objection—that OSC has no authority to issue any regulation or binding guidance relating to social media use. *See* Letter from Ana Galindo-Marrone, Chief of Hatch Act Unit, to Michael M. Purpura, Deputy Counsel to the President (April 9, 2019) (discussing only OSC's authority to issue "advisory opinions"). Merely stating that OSC issued its social media guidance "[p]ursuant to our statutory authority"—without citing any statutory provision—is not a meaningful response. *Id.* at 1. As to her media appearances, although you raised questions about some of Ms. Conway's television appearances generally, you did not provide precise information about the specific media appearances addressed in the draft Report and stated that OSC had not received any formal complaints about media appearances. Notably, OSC's April 9 letter makes no mention of any media appearances by Ms. Conway. *Id.*

Faced with the stubborn truth that OSC failed to provide notice as to each allegation in the Report, OSC appears to suggest that, because it had previously contacted Ms. Conway and opined on potential Hatch Act violations in other contexts, she has been put on notice as to any and all allegations of Hatch Act violations that might arise. Of course, due process demands far more. If OSC received a formal complaint about each of the allegations in the Report, then the appropriate next step would have been to notify White House ethics officials, with whom OSC works on a regular basis, as well as Ms. Conway, regarding the full scope of these complaints in order to continue our ongoing dialogue. Rather than seeking a productive dialogue with the aim of achieving a resolution, however, OSC sent the post-dated Report, asking for comment overnight, with the clear implication that it was not genuinely interested in receiving or considering any response. This is certainly not due process and it is not a fair opportunity to respond.

OSC's hasty decision to finalize and send this Report is particularly troubling because, by OSC's own admission, it was prompted by inappropriate external influences that should have no bearing on the work of "an independent federal investigative and prosecutorial agency." Office of Special Counsel, "What We Do," *available at* <https://osc.gov/Pages/WhatWeDo.aspx>. OSC acknowledges that its practice in the past has been to provide notice concerning specific allegations and to engage in discussions to reconcile differences in our interpretation of the law and application of the law to the facts. Here, by contrast, OSC has acknowledged that its decision to rush the Report out the door without the usual process was a reaction to a media report on the morning of May 29 regarding a passing comment by Ms. Conway—a comment that is not itself alleged to be a Hatch Act violation. After admitting that OSC relied solely on the media report to assess Ms. Conway's comment, you specifically said that the Office had to act quickly because it had been

receiving press inquiries and had to be mindful of interest from politicians outside of the Office. This is deeply troubling. As an independent federal agency, OSC has a duty both to remain impartial and to maintain both the appearance and the reality of remaining impervious to external political and media influence. *D.C. Fed'n of Civic Assn's v. Volpe*, 459 F.2d 1231, 1246 (D.C. Cir. 1971) (reversing a decision of the Secretary of Transportation upon finding “extraneous pressure intruded into the calculus of considerations on which the Secretary's decision was based”); *ATX, Inc. v. U.S. Dep't of Transp.*, 41 F.3d 1522, 1528 (D.C. Cir. 1994) (“We are concerned when congressional influence shapes the agency’s determination of the merits.”); *Aera Energy LLC v. Salazar*, 642 F.3d 212, 220 (D.C. Cir. 2011) (“[P]olitical pressure invalidates agency action only when it shapes, in whole or in part, the judgment of the ultimate agency decisionmaker.”).

The most alarming fact is that personal pique appears to have influenced the outcome of this investigation, including the decision to make the extraordinary recommendation that the President remove one of his closest advisors. The first paragraph of the Report focuses exclusively on Ms. Conway’s comment as reported earlier on the morning of May 29 and bases the decision to recommend termination on that comment. After OSC sent the Report to the White House, representatives of this office spoke with you on the phone regarding your unreasonable request to receive a response overnight. While explaining why OSC needed a response overnight, you explained that, not only did you feel a strong external pressure to release the Report, but that you also personally “took great offense” to Ms. Conway’s comment and repeatedly complained about the level of “disrespect” towards OSC that you perceived in that comment. OSC again made no effort to reach out to the White House to verify Ms. Conway’s reported comment or seek any clarifying or contextual information from Ms. Conway before sending the Report. Setting aside the reality that Ms. Conway’s comment was taken out of context, the fact that personal bias and the desire to respond to a media article apparently prompted the decision to release the Report seven hours later eviscerates the credibility of the Report, including its conclusions and unprecedented and unwarranted recommendation.

II. OSC’s Overbroad and Unsupported Interpretation of the Hatch Act Likely Violates First Amendment Rights.

A. Statutory text and implementing regulations are binding.

The text of the Hatch Act makes clear that any limitation on a federal government employee’s political speech should be narrowly construed and based on express prohibitions. The Hatch Act begins by declaring: “It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and *without fear of penalty or reprisal*, and to the extent not *expressly* prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.” 5 U.S.C. § 7321 (emphasis added). The Act also makes clear that “[a]n employee retains the right . . . to express his opinion on political subjects and candidates.” 5 U.S.C. § 7323(c). Consistent with the text of the statute, the Supreme Court has explained that “the Hatch Act aimed to protect employees’ rights, notably their right to free expression, rather than to restrict those rights.” *United States v. Nat’l Treasury Employees Union*, 513 U.S. 454, 471 (1995).

Accordingly, the Hatch Act’s prohibitions are limited. The Act prohibits, among other things, a federal employee from using “his official authority or influence for the purpose of

interfering with or affecting the result of an election.” 5 U.S.C. § 7323(a). Further, the Act prohibits an employee from engaging in “political activity” under specific circumstances. 5 U.S.C. § 7324(a). “Political activity,” as defined by regulation, is “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.” 5 C.F.R. § 734.101. Neither the statute nor any implementing regulations specifically addresses many of the allegations at issue here.

B. OSC’s guidance was issued without statutory authority and cannot be treated as binding.

In the absence of specific guidance on social media accounts in the statute or implementing regulations, OSC has attempted to unilaterally impose its overbroad social media guidance as binding authority. The Hatch Act does not specifically address activities on social media. Nor has the Office of Personnel Management (“OPM”)—the entity with the authority to issue “regulations describing the political activities which are permitted and prohibited under the Hatch Act”—specifically addressed social media use in its regulations. *See* 5 C.F.R. § 734.102. In the absence of statutory or regulatory language, OSC issued its own purported “rules” governing social media use in February 2018. *See* Office of Special Counsel, “Hatch Act Guidance on Social Media” (Feb. 2018) (containing nineteen separate “rules” that limit employees’ social media use).¹

OSC has no authority to issue binding rules that effectively function as Hatch Act regulations, particularly when those rules significantly restrict employees’ First Amendment rights. On March 28, 2019, the White House raised its concern about OSC’s lack of authority to promulgate such rules as well as the lack of transparency as to how it created these rules. None of the rules outlined in the social media guidance was subject to public notice and comment under the Administrative Procedure Act, 5 U.S.C. § 553. Instead, it appears that these rules were subject only to an internal process within OSC involving OSC’s own employees.

OSC acknowledged in its April 9, 2019, letter that it “has authority to issue advisory opinions,” but did not address the distinction between issuing advisory opinions concerning the applicability of 5 C.F.R. part 734 to particular facts (as OSC is authorized to do in 5 C.F.R. § 734.102(a)) and issuing “regulations describing the political activities which are permitted and prohibited under the Hatch Act,” which is the proper purview of OPM, as clearly stated in 5 C.F.R. § 734.102(c). OSC’s effort to promulgate so-called “rules” concerning social media exceeds OSC’s statutory authority and improperly usurped the authority of OPM.²

This issue was addressed by the Department of Justice’s Office of Legal Counsel (“OLC”) in a February 2, 1994 opinion for OSC’s Deputy Special Counsel. *Authority for Issuing Hatch Act Regulations*, 18 Op. O.L.C. 1 (1994). In that opinion, OLC examined whether OSC or OPM had the authority to promulgate regulations delimiting the scope of impermissible political activities under the Hatch Act Reform Amendments of 1993. After a review of precedent, the statutes outlining the responsibilities of OPM and OSC under the Hatch Act, and the text and legislative

¹ Available at <https://osc.gov/Resources/HA%20Social%20Media%20FINAL%20r.pdf>.

² OSC is empowered by statute to investigate Hatch Act violations. 5 U.S.C. § 1216(a). OSC may issue advisory opinions concerning the applicability of 5 C.F.R. part 735 pursuant to 5 U.S.C. § 1212(f) and 5 C.F.R. § 734.102(a).

history of the Hatch Act Amendments, OLC concluded that OPM, not OSC, possessed the authority to promulgate regulations explicating the Hatch Act as amended. OLC determined that the division of Hatch Act authority between OPM and OSC “flows from clear statutory pronouncements” and “[t]he legislative history of the Hatch Act Amendments fortifies the conclusion that Congress approved of OPM’s traditional obligation to issue Hatch Act regulations.” *Id.* at 3, 5. OLC further concluded that Congress clearly rejected the idea that OSC has rule-making authority. *Id.* at 5. Remarkably, even an OLC opinion clearly explaining that OSC lacks authority to issue additional rules beyond the statute and OPM regulations has not stopped OSC from attempting to impose its own set of “rules,” without authority or a transparent process, to the detriment of Executive Branch employees’ constitutional rights.

C. OSC’s guidance is overbroad and chills protected speech.

OSC’s unilateral and untested social media guidance is not only wholly unauthorized, it is also overbroad under existing law. According to OSC, “the Hatch Act prohibits an employee from engaging in political activity on a personal social media account if the employee also uses that account for official purposes.” Report at 13. OSC provides no citation to the statute or any regulation for this proposition, which appears to be consistent only with its own social media guidance. Office of Special Counsel, “Hatch Act Guidance on Social Media” (“OSC Social Media Guidance”), at 8.³ OSC asserts that, based on this alone, Ms. Conway violated the Hatch Act’s prohibition against using her “official authority or influence for the purpose of . . . affecting the result of an election” by allegedly using her Twitter account, “@KellyannePolls,” for both official and political purposes. Report at 13-15. OSC’s rationale appears to be that having one social media account in which some posts contain officially related activity and other posts contain political activity per se constitutes using “official authority or influence” to affect an election result.

Examining the facts of Ms. Conway’s personal Twitter account highlights the absurdity of OSC’s overbroad and unsupported social media guidance. Ms. Conway created her personal Twitter account in 2012, many years before she entered government service. Since establishing her account, and long before joining the Administration, she has been a prolific Twitter user, posting regularly on public policy and political issues. That Ms. Conway has continued to be a prolific Twitter user since joining the Administration, commenting on public policy and political issues as she did before, is unremarkable. In fact, she is constitutionally entitled to continue to comment in her personal capacity after entering public service. *See* U.S. Const. amend. I; 5 U.S.C. § 7323(c). Therefore, even assuming arguendo that some posts on her Twitter account were for “official purposes,” which is not accurate, that alone cannot establish that she somehow uses her official authority when making separate and unrelated personal posts. Such a broad interpretation of the law would impermissibly prohibit Ms. Conway from continuing to make comments in her personal capacity through a personal media distribution channel she had established long before entering public service.

Moreover, OSC’s interpretation is particularly problematic here because Ms. Conway does *not*, in fact, use her Twitter account for any “official purpose.” She does not issue press releases,

³ Available at <https://osc.gov/Resources/HA%20Social%20Media%20FINAL%20r.pdf>.

press statements, or any other original White House content using her personal Twitter account. Neither does she currently use her official title or position. Despite this, OSC's position appears to be that Ms. Conway's personal Twitter account must be considered an official communications tool because she has used this personal account to post materials related to the Administration's official activities—precisely the type of public policy and political issues on which she commented long before she entered the Administration. Ms. Conway does not surrender her First Amendment right to comment on these same topics in her personal capacity, using her personal social media account, simply because she answered the call to serve in our federal government. *See Pickering v. Bd. of Educ.*, 391 U.S. 563, 572-73 (1968) (discussing importance of government employees' ability "to speak out freely on" public policy "without fear of retaliatory dismissal"). This is, however, precisely what OSC's current social media guidance demands. By making such an extraordinary determination, OSC has overreached in its interpretation of the Hatch Act. Such a construction has a chilling effect on all federal employees whose fundamental First Amendment right to engage in political and public policy discussions should not be compromised based solely on OSC's guidance.

III. Ms. Conway's Personal Twitter Account Does Not Violate OSC's Non-Binding Guidance.

Straining to find any "official activity" on Ms. Conway's Twitter account, OSC further stretches its "rules" in an attempt to unlawfully police federal employees' personal social media accounts. OSC's own guidance appears to prohibit using a personal social media account for political purposes if it creates even a perception that the account is "being used in ways that suggest it is an official social media account." OSC Social Media Guidance, at 8. The factors OSC considers in determining whether an account may be "perceived" as an official account include the following: (1) the account contains little to no personal content; (2) the account identifies the individual as a federal employee; (3) the account extensively uses photographs of the employee's official activities; (4) the account often references, retweets, likes, comments, or otherwise shares material related to official activities; or (5) the account is linked to an agency website or other official page.⁴ Even assuming the validity of considering these factors as a standard, Ms. Conway's personal Twitter account does not violate OSC's non-binding guidance.

First, Ms. Conway's Twitter account includes significant personal content, including many political posts. For example, from January 2018 until present, Ms. Conway has posted over 450 posts on her personal account. Over 200 posts are retweets of major media outlets. The subject matter of these retweets varies—including political matters, conservative issues, and media analysis of Administration policies. That is entirely consistent with Ms. Conway's previous use of her personal Twitter account from before she entered government service. In addition, there are a number of posts completely unrelated to political or government matters. For example, Ms.

⁴ OSC's guidance was reissued in February 2018 during the course of the current Administration. It added the "rule" on "Misusing Personal Social Media Accounts." *See Id.* OSC's previous guidance on social media accounts issued in 2015, which consisted of "Frequently Asked Questions" posted on its website, did not contain this "rule." *See* Office of Special Counsel, "OSC Updates Hatch Act Guidance for Social Media," available at <https://osc.gov/News/pr15-23.pdf>.

Conway has posts related to sports⁵ and birthday wishes.⁶ It therefore strains credulity to conclude, as OSC has done, that there is “little content that would be considered personal.” Letter from OSC to Ms. Conway, Counselor to the President, Re: OSC File No. HA-19-0631, at 2 (Dec. 20, 2018).

Second, Ms. Conway’s personal Twitter account does not identify her by her government title.⁷ Although her account did so in the past, it was blessed by other OSC guidance that specifically allowed employees to “include your official title or position and where you work in your social media profile” and to engage in political activity on a personal social media account. Office of Special Counsel, “Hatch Act Social Media Quick Guide” (Feb. 2018).⁸

Third, Ms. Conway’s account does not extensively use photographs or videos of her official activities. A review of the posts made by Ms. Conway in 2018 indicates that less than 10 percent include photographs or videos that may be related to her official duties. Additionally, the majority of posts that do include images related to her official duties are retweets of media interviews and articles rather than original official Administration content.

Fourth, Ms. Conway’s account does not often reference, retweet, like, comment, or otherwise share materials related to her official activities. Again, although there are some retweets of other Administration officials’ posts, these retweets do not constitute a large percentage of Ms. Conway’s overall Twitter posts. Of the more than 450 posts on @KellyannePolls from 2018, approximately fifty were retweets of other Administration officials’ posts. This constitutes approximately 11% of her posts for the year. And even these tweets concern policy topics that Ms. Conway has long believed to be important, including well before she became a federal employee.

In sum, Ms. Conway’s use of her personal Twitter account does not violate *any* of the factors OSC identifies as guideposts in its non-binding guidance documents.

IV. Ms. Conway’s Media Appearances Do Not Violate The Hatch Act.

OSC attempts to characterize Ms. Conway’s media appearances as violating the Hatch Act because, OSC alleges, she “repeatedly commented on 2020 presidential candidates during official media interviews.” Report at 6. As an initial matter, the Hatch Act’s prohibition on using official authority or influence to affect the result of an election is not violated by simply commenting on an individual who is running for office. Such an interpretation goes well beyond a reasonable construction of the statute and is at odds with the narrow construction typically given to restrictions on First Amendment-protected activities. After all, there are currently U.S. senators and representatives, as well as governors, all running for President. Several of these individuals have announced affirmative policy proposals that they are also supporting in their current positions. Unsurprisingly, these candidates almost uniformly oppose and criticize the President’s own policy initiatives. That is merely a feature of the way robust political debate operates in our country. It

⁵ A review of her Twitter account from January 2018 reveals at least 10 posts specific to the Philadelphia Eagles.

⁶ See, e.g. <https://twitter.com/KellyannePolls/status/1004862119991566336>.

⁷ See https://twitter.com/KellyannePolls?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

⁸ Available at <https://osc.gov/Resources/Social%20Media%20Quick%20Guide%20FINAL%20r.pdf>.

cannot supply a basis for prohibiting an adviser to the President from commenting on a competing policy proposal or the individual who offers it simply because that individual is also running for President.

Prior OSC guidance acknowledges this general principle. “Absent evidence that the criticism or praise is [directed at the success or failure of a political party, candidate for partisan political office, or partisan political group], criticism or praise of an administration’s policies and actions is not considered political activity.” Office of Special Counsel, “Guidance Regarding Political Activity” (Nov. 27, 2018). Therefore, political activity does not include merely criticizing policy proposals offered by aspiring candidates who hope to implement them in a future administration. Any other rule would not adequately allow the President’s advisers to defend his policy positions, to criticize conflicting policy proposals, and to engage in policy commentary.⁹ This includes comments that may concern matters on which opinion is politically divided or that may have collateral partisan consequences. *Cf. Payment of Expenses Associated with Travel by the President and Vice President*, 6 Op. O.L.C. 214, 217 (1982) (discussing mixed official/private nature of Presidential campaign trips).

Even applying OSC’s overbroad interpretation of the Hatch Act, the Report’s criticism fails on its own terms. OSC places significant weight on the fact that Ms. Conway discussed Democratic candidates by name in response to questions. Report at 6. But in most of the cases cited in the Report, Ms. Conway was prompted by news anchors to comment on Democratic politicians.¹⁰ And in every case, Ms. Conway actively pivoted the conversation back to the discussion of policy ideas ranging from combating the opioid crisis, to securing the border, to defeating ISIS. Even where Ms. Conway did comment on Democratic politicians, she spoke about Democrats in general terms as having no substantive policy proposals. For example, in her April 22 interview, Ms. Conway stated that it was irrelevant how many candidates entered the Democratic primary race, because they all had poor policy proposals: “I would just remind everyone simple math, whether it’s one, whether it’s 19, whether it’s 50, anything times zero equals zero, simple multiplication, so 50 Democrats can run, 19 are now running, but if your message is zero, it’s a big zero.”¹¹ And where she criticized anyone specifically by name, she did so by criticizing the poor policy proposals—or absence of policy proposals—associated with them. Again, in her April 24 interview, Ms. Conway again focused on policy proposals: “Bernie Sanders has a lot in common with Donald Trump, which is he doesn’t really care about what his party

⁹ In a related context, OSC has acknowledged that discussion of public policy matters is not political activity. *See* Office of Special Counsel, Federal FAQs, available at <https://osc.gov/Pages/HatchAct-FAQs.aspx> (“The Hatch Act does not prohibit employees at any time, including when they are at work or on duty, from expressing their personal opinions about events, issues, or matters.”); *id.* (“[E]mployees may express their opinions about current events and matters of public interest at work so long as their actions are not considered political activity. For example, employees are free to express their views and take action as individual citizens on such questions as referendum matters, changes in municipal ordinances, constitutional amendments, pending legislation or other matters of public interest, like issues involving highways, schools, housing, and taxes.”).

¹⁰ Even where reporters did not ask Ms. Conway to comment on specific Democratic politicians by name, they repeatedly did so by referencing topics that could only be reasonably interpreted as requests for comments on specific politicians.

¹¹ Anna Hopkins, *Kellyanne Conway: Trump Can’t be Impeached by an Investigation Democrats Started*, Fox News (Apr. 22, 2019), available at <https://www.foxnews.com/politics/kellyanne-conway-trump-impeachment-democrats>.

thinks about his candidacy at this point in the primaries. . . . The only difference between Bernie Sanders and Donald Trump is Bernie Sanders' ideas are terrible for America.”¹²

But OSC did not contact Ms. Conway for comment on these or any other statements referenced in the Report. If it had, it would have seen that these interviews, taken as a whole, focused predominately on policy conversations and included marginal references to specific Democratic politicians—often at the very end of these interviews.

A case in point is OSC's blanket refusal to inquire into the context of Ms. Conway's alleged retort to a reporter, “Let me know when the jail sentence starts,” which served as the transparent impetus for the hasty release of OSC's Report. Report at 1. In fact, this statement occurred at the end of a lengthy substantive exchange between Ms. Conway and a reporter regarding the mechanics of the Hatch Act.¹³ In a series of questions, Ms. Conway asked the reporter if he could “tell me what the Hatch Act is and how one violates it? You can look down at your notes.” During this line of questioning, Ms. Conway explained how prior criticism of her media appearances failed to assess her statements in context. After further questions, Ms. Conway complained that the reporter's questions were a failed attempt to chill her protected speech, saying, “If you are trying to silence me for the Hatch Act, it is not going to work.” It was in this context that she asked *the reporter* to identify “when the jail sentence starts,” in an effort to highlight her view of the reporter's lack of knowledge about the Act. But she emphatically did not “scoff[] at her responsibilities under the Hatch Act and ridicule[] its enforcement.” Report at 1.

V. OSC Has Politicized Its Role By Failing To Apply Its Standards In An Evenhanded Manner Across Administrations.

Vague standards invite abuse. The opaque manner in which OSC has drafted and applied its standards on political activity has led to the inevitable abuse of discretion. Unfortunately, OSC's overreaching in its efforts to target Ms. Conway, combined with its history of refusing to apply its policies evenhandedly to the prior Democratic administration, create the impression that OSC is attempting to tilt the political playing field and to inject itself into partisan politics.

For example, during the Obama Administration, Press Secretary Josh Earnest made a lengthy and vitriolic statement attacking then-candidate Trump during the Presidential campaign while speaking to reporters in his official capacity from the podium of the White House briefing room. When asked why OSC did not file a complaint or author a report on this incident, the Office merely stated that the public had not complained about his egregious behavior. But the whole point of vesting an independent agency with the authority to investigate and report on violations of the Hatch Act is to eliminate the bias that bears down on politically targeted individuals and to ensure that the law is applied evenhandedly. The disparate treatment of Mr. Earnest and Ms. Conway violates traditional notions of fairness.

¹² Talia Kaplan, *Kellyanne Conway to Democrats: 'Are you going to talk for the rest of 2019 into 2020 about impeachment or infrastructure?'*, Fox News Channel (Apr. 24, 2019), available at <https://www.foxnews.com/politics/kellyanne-conway-to-democrats-are-you-going-to-talk-for-the-rest-of-2019-into-2020-about-impeachment-or-infrastructure>.

¹³ See *Kellyanne Conway Remarks to Reports*, C-Span (May 29, 2019), available at <https://www.c-span.org/video/?461193-1/kellyanne-conway-defends-president-trumps-criticism-joe-biden>.

VI. Requests For Responses And Additional Information.

Again, in light of the many significant issues discussed in this initial response, I reiterate our request that OSC withdraw and retract its Report. If the OSC chooses not to do so, the White House will need additional information to consider fully and fairly each of the allegations and OSC's conclusions. Accordingly, we ask that you provide the following information by June 21, 2019.

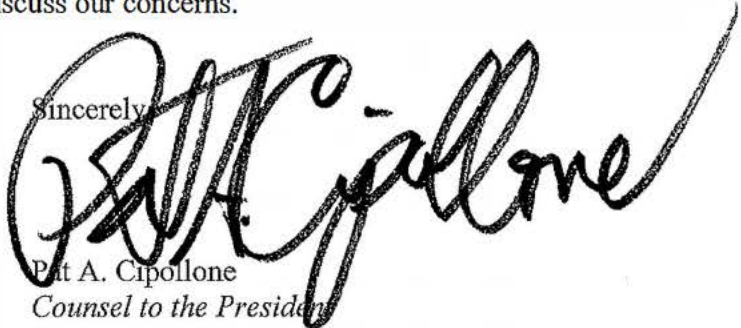
1. OSC's entire investigation files relating to the Report;
2. All internal correspondence relating to the Report and any underlying investigation;
3. All external correspondence relating to the Report and any underlying investigation;
4. Internal policies and procedures relating to the Report and any underlying investigation, including policies and procedures on initiating an investigation generally, on investigating White House employees specifically, and on issuing social media guidance related to the Hatch Act; and
5. Copies of all OSC and other documents relied upon in drafting the Report.

* * *

We reiterate that the White House takes seriously the principles codified in the Hatch Act, which respects and protects the First Amendment rights of federal employees. 5 U.S.C. § 7323(a). We ask OSC to do the same. Just recently in March, all White House Office employees were trained on Hatch Act compliance as part of the Office's mandatory annual ethics training. In May, we distributed updated written guidance on employee political activities to all White House Office employees. We are also offering ongoing specialized training on Hatch Act obligations.

At the same time, the White House is also committed to ensuring that OSC exercises its significant authority in an appropriate and neutral manner and without infringing on the fundamental First Amendment rights of all federal government employees. OSC's apparent timing and motivation behind issuing the Report as well as the substance of the Report's analysis and recommendation raise serious questions about OSC's commitment to the principles codified in the Hatch Act. We look forward to reviewing the responses and documents requested above and to meeting in person as soon as possible to discuss our concerns.

Sincerely,



Pat A. Cipollone
Counsel to the President

cc: Ana Galindo-Marrone, Chief, Hatch Act Unit
Susan K. Ullman, General Counsel

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<http://oversight.house.gov>

June 13, 2019

Ms. Kellyanne Conway
Counselor to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Ms. Conway:

The Committee on Oversight and Reform requests your testimony at a hearing on Wednesday, June 26, 2019, at 10:00 a.m., in room 2154 of the Rayburn House Office Building.

You are invited to address your failure to comply with federal laws, including ethics laws and the Hatch Act. Please be prepared to provide a five-minute opening statement and answer questions posed by Members.

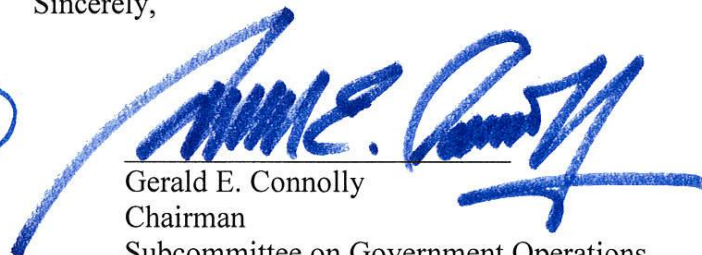
Please confirm your attendance by 5:00 p.m. on Monday, June 17, 2019.

The enclosed Witness Instruction Sheet provides information for witnesses appearing before the Committee. Please note the procedures for submitting written testimony at least two business days prior to the hearing. If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,



Elijah E. Cummings
Chairman
Committee on Oversight and Reform



Gerald E. Connolly
Chairman
Subcommittee on Government Operations

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

The Honorable Mark Meadows, Ranking Member
Subcommittee on Government Operations

Committee on Oversight & Reform
Witness Instruction Sheet

1. Witnesses should provide their testimony, biography, and "Truth in Testimony" disclosure and certification form via email to Oversight_Clerks@mail.house.gov no later than 10:00 a.m. two business days prior to the hearing.
2. Witnesses should also provide a short biographical summary and include it with the electronic copy of testimony provided to the Clerk.
3. At the hearing, each witness will be asked to summarize his or her written testimony in five minutes or less in order to maximize the time available for discussion and questions. Written testimony will be entered into the hearing record and may extend to any reasonable length.
4. Written testimony will be made publicly available and will be posted on the Committee's website and the U.S. House of Representatives Document Repository. It is therefore recommended that personally identifiable information, such as addresses and phone numbers, not be included in the biographical information.
5. At the hearing, each witness will be asked to summarize his or her written testimony in five minutes or less in order to maximize the time available for discussion and questions. Written testimony will be entered into the hearing record and may extend to any reasonable length.
6. The Committee does not provide financial reimbursement for witness travel or accommodations. Witnesses with extenuating circumstances, however, may submit a written request for such reimbursements to Robin Butler, Financial Administrator, 2157 Rayburn House Office Building, at least one week prior to the hearing. Reimbursements will not be made without prior approval.
7. Witnesses with disabilities should contact Committee staff to arrange any necessary accommodations.
8. Please note that Committee Rule 16(b) requires counsel representing an individual or entity before the Committee or any of its subcommittees, whether in connection with a request, subpoena, or testimony, promptly submit a notice of appearance to the Committee. If this applies to you, please email the address above to acquire this form.

For inquiries regarding these rules and procedures, please contact the Committee on Oversight and Reform at (202) 225-5051.

Truth in Testimony Disclosure Form

In accordance with Rule XI, clause 2(g)(5)*, of the *Rules of the House of Representatives*, witnesses are asked to disclose the following information. Please complete this form electronically by filling in the provided blanks.

Committee: _____

Subcommittee: _____

Hearing Date: _____

Hearing Subject:

Witness Name: _____

Position/Title: _____

Witness Type: ☐ Governmental ☐ Non-governmental

Are you representing yourself or an organization? ☐ Self ☐ Organization

If you are representing an organization, please list what entity or entities you are representing:

If you are a non-governmental witness, please list any federal grants or contracts (including subgrants or subcontracts) related to the hearing's subject matter that you or the organization(s) you represent at this hearing received in the current calendar year and previous two calendar years. Include the source and amount of each grant or contract. *If necessary, attach additional sheet(s) to provide more information.*

If you are a non-governmental witness, please list any contracts or payments originating with a foreign government and related to the hearing's subject matter that you or the organization(s) you represent at this hearing received in the current year and previous two calendar years. Include the amount and country of origin of each contract or payment. *If necessary, attach additional sheet(s) to provide more information.*

False Statements Certification

Knowingly providing material false information to this committee/subcommittee, or knowingly concealing material information from this committee/subcommittee, is a crime (18 U.S.C. § 1001). This form will be made part of the hearing record.

Witness signature

Date

If you are a non-governmental witness, please ensure that you attach the following documents to this disclosure. Check both boxes to acknowledge that you have done so.

- ☐ Written statement of proposed testimony
- ☐ Curriculum vitae

*Rule XI, clause 2(g)(5), of the U.S. House of Representatives provides:

(5)(A) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof.

(B) In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of any Federal grants or contracts, or contracts or payments originating with a foreign government, received during the current calendar year or either of the two previous calendar years by the witness or by an entity represented by the witness and related to the subject matter of the hearing.

(C) The disclosure referred to in subdivision (B) shall include—

(i) the amount and source of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) related to the subject matter of the hearing; and

(ii) the amount and country of origin of any payment or contract related to the subject matter of the hearing originating with a foreign government.

(D) Such statements, with appropriate redactions to protect the privacy or security of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

June 13, 2019

The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

Attached to this letter is a copy of the U.S. Office of Special Counsel's (OSC) investigative report detailing numerous violations of the Hatch Act committed by Counselor to the President Kellyanne Conway. Ms. Conway's disregard for the restrictions the Hatch Act places on executive branch employees is unacceptable. If Ms. Conway were any other federal employee, her multiple violations of the law would almost certainly result in removal from her federal position by the Merit Systems Protection Board. As a highly visible member of the Administration, Ms. Conway's violations, if left unpunished, send a message to all federal employees that they need not abide by the Hatch Act's restrictions. Her actions erode the principal foundation of our democratic system—the rule of law.

Since at least February 1, 2019, Ms. Conway has repeatedly violated the Hatch Act during her official media appearances by making statements directed at the success of your reelection campaign or at the failure of candidates for the Democratic Party's nomination for President. In doing so, she has used her official authority to advocate for or against declared candidates for partisan political office. OSC has given Ms. Conway multiple opportunities to come into compliance with the Hatch Act. Ms. Conway has ignored OSC's requests. To make matters worse, Ms. Conway is a repeat offender, whose violations detailed in the attached report are similar to those identified and referred to you in OSC's March 6, 2018 report. As with the prior case, OSC also offered Ms. Conway an opportunity to respond to this report. In both instances, however, she declined to do so.

OSC's career Hatch Act staff have long conducted thorough and impartial investigations of alleged Hatch Act violations, including by senior officials in administrations of both parties. Never has OSC had to issue multiple reports to the President concerning Hatch Act violations by the same individual. Ms. Conway's actions and statements stand in stark contrast to the culture of compliance promised by your White House Counsel and undermine your efforts to create and enforce such a culture. Therefore, OSC respectfully requests that Ms. Conway be held to the same standards as all other federal employees, and, as such, you find removal from federal service to be the appropriate disciplinary action.

Respectfully,

A handwritten signature in blue ink, appearing to read "H. J. Kerner".

Henry J. Kerner
Special Counsel



U.S. OFFICE OF SPECIAL COUNSEL

Report of Prohibited Political Activity Under the Hatch Act
OSC File Nos. HA-19-0631 & HA-19-3395 (Kellyanne Conway)

May 30, 2019

This report represents the deliberative attorney work product of the U.S. Office of Special Counsel and is considered privileged and confidential. Any release of information beyond persons specifically designated by the U.S. Office of Special Counsel to have access to its contents is prohibited. All Freedom of Information Act inquiries regarding this report should be referred to OSC's FOIA Officer at (202) 804-7000.

EXECUTIVE SUMMARY

In a May 29, 2019 interview, Ms. Kellyanne Conway, Counselor to the President, reportedly scoffed at her responsibilities under the Hatch Act and ridiculed its enforcement by asserting, “Let me know when the jail sentence starts.”¹ Her defiant attitude is inimical to the law, and her continued pattern of misconduct is unacceptable. The U.S. Office of Special Counsel (OSC) calls on President Donald J. Trump to remove Ms. Conway from her federal position immediately.

OSC is an independent executive branch agency charged with Hatch Act enforcement. OSC opened two cases, OSC File Numbers HA-19-0631 and HA-19-3395, involving Ms. Conway in response to complaints alleging that her conduct during media interviews and on her Twitter account, “@KellyannePolls,” violated the law. After investigating these allegations, OSC has concluded that Ms. Conway has and continues to violate the Hatch Act. This report contains OSC’s investigative findings in these matters and refers the violations to the President.

Hatch Act Prohibition at Issue

The Hatch Act prohibits federal civilian executive branch employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election.² The attendant Hatch Act regulation provides that, for example, an employee may not use her official title or position while participating in political activity.³ Political activity is defined as activity directed at the success or failure of a political party, partisan political group, or candidate for partisan political office.⁴ Additionally, an employee may violate this prohibition by misusing either official or personal social media accounts, and, specifically, OSC has advised that an employee may not engage in political activity on a personal social media account if OSC has determined that the account is used for official purposes.

Summary of Investigative Findings

OSC’s investigation determined that Ms. Conway violated the Hatch Act during media appearances and by engaging in both official and political activity on her Twitter account, “@KellyannePolls.” Ms. Conway regularly participated in official media interviews in her capacity as a White House spokesperson to answer reporters’ questions about the Administration. Beginning in February 2019, Ms. Conway, during official media appearances, engaged in a pattern of partisan attacks on several Democratic Party candidates shortly after they announced their candidacy for President, including Senator Cory Booker, Senator Elizabeth Warren, former Congressman Robert Francis “Beto” O’Rourke, and former Vice President Joe Biden. For example, in one interview, Ms. Conway insinuated that Senator Booker was “sexist” and a “tinny” “motivational speaker.” In another, Ms. Conway said Senator Warren was “lying” about her ethnicity and “appropriating somebody else’s

¹ Brett Samuels, *Kellyanne Conway dismisses Hatch Act violation: ‘Let me know when the jail sentence starts,’* The Hill (May 29, 2019), <https://thehill.com/homenews/administration/445914-kellyanne-conway-dismisses-hatch-act-violation-let-me-know-when-the>.

² 5 U.S.C. § 7323(a)(1).

³ See 5 C.F.R. § 734.302(b)(1).

⁴ 5 C.F.R. § 734.101.

heritage.” After Mr. O’Rourke announced his candidacy, Ms. Conway attacked him for not “think[ing] the women running are good enough to be President.”

In another instance, shortly after Mr. Biden declared his intention to run for President, Ms. Conway attacked his lack of “vision,” said his announcement video was “very dark and spooky,” and criticized his unwillingness to be “held to account for his record.” Ms. Conway also repeatedly singled out those she deemed to be “frontrunners” for the Democratic Party nomination — Senator Sanders and Mr. Biden. She referred to both candidates derisively as “two old white straight men career politicians,” attacked Senator Sanders’s ideas as “terrible for America,” and brought up Mr. Biden unprompted on at least four occasions in one interview. In addition to disparaging individual Democratic candidates, Ms. Conway directed insults at the entire Democratic field. For example, she compared the Democratic Party candidates to “woodchips” and reminded the American public “anything times zero equals zero” when it came to the number of Democratic candidates and their ideas. Each of these actions constitutes a violation of the Hatch Act’s prohibition on the use of official authority to interfere with or affect an election.

With respect to her Twitter account, OSC concluded that Ms. Conway uses “@KellyannePolls” to execute her official duties. OSC also found that Ms. Conway engages in significant political activity on this account. She tweeted, for example, that President Trump has “got this” and included “#2020:I’mWithHim,” mocked Senator Booker for sounding “like a Hallmark card,” and criticized Senator Warren for claiming to be Native American to benefit herself. Ms. Conway retweeted a March 31, 2019 message that referred to Mr. Biden as “Creepy Uncle Joe” and took it upon herself to outline other faults she found in Mr. Biden’s candidacy. And as recently as May 7, 2019, Ms. Conway retweeted a campaign advertisement that remarked positively on the President’s economy as compared to the “Obama-Biden economy.”

Ms. Conway’s advocacy against the Democratic candidates and open endorsement of the President’s reelection effort during both official media appearances and on her Twitter account constitute prohibited political activity under the Hatch Act. Accordingly, she repeatedly continues to violate the law.

Conclusion

Numerous aggravating factors support OSC’s recommendation that the President remove Ms. Conway from her federal position. First, Ms. Conway has substantial knowledge of the Hatch Act and was previously found to have violated the law by engaging in very similar conduct. Indeed, in March 2018, she was the subject of another disciplinary action referral from OSC to the President for engaging in political activity during official media interviews. Second, OSC repeatedly requested that Ms. Conway comply with the law. OSC sent a letter to Ms. Conway about her impermissible Twitter use in December 2018, warned the Office of White House Counsel in two March 2019 meetings about her political activity during official media appearances, and sent another letter to the Office of White House Counsel in April 2019 concerning her Twitter account. Lastly, Ms. Conway failed to comply with OSC’s requests and, in fact, escalated her partisan critiques of candidates after OSC had communicated to the White House that her conduct violated the law. In sum, Ms. Conway continues to violate the Hatch Act and signals that she will not comply with the law.

I. INTRODUCTION

OSC's report contains the findings and conclusions of the agency's investigation of allegations that Ms. Kellyanne Conway, Counselor to the President, violated the Hatch Act by using her official position to influence the 2018 midterm elections and 2020 presidential election through both media appearances and social media. After investigating these allegations, OSC has determined that Ms. Conway repeatedly violated the Hatch Act. Notably, this is not the first time that OSC has concluded that Ms. Conway broke the law. In March 2018, OSC issued a report to President Donald J. Trump informing him that Ms. Conway violated the law on two occasions when she engaged in political activity while speaking in her official capacity during media interviews. Yet, in blatant disregard for the law, Ms. Conway continues to violate the Hatch Act by engaging in this same misconduct. Accordingly, OSC refers these more recent violations to the President and requests her removal from federal employment.⁵

This investigation began when OSC received a complaint in October 2018 alleging, in part, that Ms. Conway engaged in prohibited political activity when she posted partisan political messages on her Twitter account, "@KellyannePolls," shortly before the 2018 midterm elections.⁶ OSC opened OSC File Number HA-19-0631 and began investigating the allegations. In May 2019, OSC received additional complaints alleging Ms. Conway was expressing her political views about candidates in the 2020 presidential election during her official media interviews. OSC consolidated these complaints and opened OSC File Number HA-19-3395.

II. LEGAL STANDARD REQUIRED TO ESTABLISH A HATCH ACT VIOLATION

For purposes of the Hatch Act, an employee is defined as "any individual, other than the President and the Vice President, employed or holding office in ... an Executive agency other than the Government Accountability Office."⁷

The Hatch Act prohibits (1) federal employees (2) from using their official authority or influence (3) for the purpose of interfering with or affecting the result of an election.⁸ The attendant Hatch Act regulation gives examples of the type of activity this prohibition encompasses.⁹ For example, the regulation makes clear that it is a prohibited use of official authority for an employee to use her official title or position while participating in political activity.¹⁰ Political activity is defined as activity directed at the success or failure of a political party, partisan political group, or candidate for partisan political office.¹¹ Thus, a federal employee violates the Hatch Act if she promotes the election or defeat of candidates for partisan political office while speaking in her official capacity.

⁵ See 5 U.S.C. § 1215(b).

⁶ OSC determined the other alleged incident, an early October interview, did not constitute a Hatch Act violation.

⁷ 5 U.S.C. § 7322(1).

⁸ See 5 U.S.C. § 7323(a)(1).

⁹ See 5 C.F.R. § 734.302.

¹⁰ See 5 C.F.R. § 734.302(b)(1).

¹¹ 5 C.F.R. § 734.101.

The Hatch Act also places limitations on a federal employee's engagement in political activity on official or personal social media accounts. OSC has advised that employees may not engage in political activity on official social media accounts or on a personal social media account if they are using that account for official purposes or posting in their official capacity. OSC uses a multi-factor test to determine if an ostensibly personal social media account is being used for official purposes. These factors include whether it (1) contains little to no personal content; (2) identifies the individual as a federal employee; (3) extensively uses photographs of the employee's official activities; (4) frequently references, retweets, likes, comments, or otherwise shares material related to official activities; or (5) is linked to an agency website or other official page. No single factor is dispositive.

OSC's February 2018 guidance published on our website specifically addresses the misuse of personal social media accounts and provides the following example:

You are a federal employee and maintain only a personal Twitter account. While you have some personal posts about family vacations and events with friends, most of your posts are retweets of your agency's initiatives and photographs of you at official events. You **may not** use this account to make posts directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.¹²

III. INVESTIGATIVE FINDINGS

A. Ms. Conway is subject to the Hatch Act.

The Hatch Act restricts the political activity of "any individual, other than the President and the Vice President, employed or holding office in ... an Executive agency other than the Government Accountability Office."¹³ The White House Office is a component of the Executive Office of the President, which is considered an Executive agency for purposes of the Hatch Act.¹⁴ Ms. Conway is a commissioned officer in the White House Office and has been serving as Counselor to the President since January 20, 2017. Therefore, as a presidential appointee employed by the White House Office, Ms. Conway is subject to the Hatch Act.

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¹² See OSC's February 2018 "Hatch Act Guidance on Social Media," pg. 9, available at: <https://osc.gov/Pages/Hatch-Act-Social-Media-and-Email-Guidance.aspx>.

¹³ 5 U.S.C. § 7322(1).

¹⁴ See 19 U.S. Op. Off. Legal Counsel 103 (May 5, 1995), 1995 WL 1767065 (concluding that for Hatch Act purposes, the White House Office is an Executive agency); 27 U.S. Op. Off. Legal Counsel 118 (May 23, 2003), 2003 WL 25728359 (reaffirming conclusion that the Hatch Act applies to employees of the White House Office).

B. Ms. Conway violated the Hatch Act's prohibition against using her official authority or influence for the purpose of affecting the result of an election. From February 1, 2019, to May 1, 2019, she repeatedly commented on 2020 presidential candidates during official media interviews.

In her role as Counselor to the President, Ms. Conway has a diverse portfolio, which includes the opioid epidemic,¹⁵ veterans' issues, and healthcare reform.¹⁶ Also, Ms. Conway serves as a spokesperson for the Trump Administration. When she was appointed to her current position, the transition team announced that Ms. Conway would "work with senior leadership to effectively message and execute the Administration's legislative priorities and actions."¹⁷ Similarly, the President has described Ms. Conway as "a tireless and tenacious advocate of [his] agenda ... [who] has amazing insights on how to effectively communicate [his] message...."¹⁸ Ms. Conway reportedly characterized her role as supporting the President in "his effective connecting and communicating with America."¹⁹

Consistent with her duties in the Administration, Ms. Conway routinely gives official interviews promoting the President's agenda. From February to May 2019, Ms. Conway gave dozens of interviews in her official capacity. During these interviews, some of which occurred on White House grounds, she was introduced as Counselor to the President and discussed official matters. And while speaking in her official capacity, Ms. Conway also engaged in campaign rhetoric, remarking on the strength of President Trump's candidacy and/or the weaknesses of the Democratic Party's candidates in the upcoming 2020 presidential election. Her comments were directed at persuading voters not to support the Democratic Party candidates in the 2020 presidential election and garnering support for the President's candidacy, and therefore constituted political activity under the Hatch Act. By engaging in political activity while speaking in her official capacity, Ms. Conway used her official authority or influence for the purpose of affecting the result of an election in violation of the Hatch Act. The following examples illustrate the breadth and frequency of Ms. Conway's Hatch Act violations.

1. February Interviews

On February 1, 2019, Ms. Conway participated in a *Fox & Friends* interview in her official capacity.²⁰ At the outset, co-host Steve Doocy introduced Ms. Conway by her title, Counselor to the President. It was also evident that Ms. Conway was standing inside the White House during the

¹⁵ See The White House, *A Raw, Unfiltered Look at the 'Crisis Next Door'* (June 8, 2018), <https://www.whitehouse.gov/articles/raw-unfiltered-look-crisis-next-door/>.

¹⁶ C-Span, *Kellyanne Conway Comments to Reporters at the White House* (Apr. 30, 2019), <https://www.c-span.org/video/?460272-1/kellyanne-conway-defends-stephen-moore-nomination>.

¹⁷ Eric Walsh, Susan Heavey & Jeffrey Benkoe, *Kellyanne Conway joins Trump administration as counselor to the president*, Business Insider (Dec. 22, 2016), <https://www.businessinsider.com/trump-names-kellyanne-conway-counselor-to-the-president-2016-12>.

¹⁸ Louis Nelson, *Trump creates competing power centers in his West Wing*, Politico (Dec. 22, 2016), <https://www.politico.com/story/2016/12/kellyanne-conway-counselor-president-trump-232911>.

¹⁹ *Id.*

²⁰ Fox & Friends, *White House talks suspending nuclear pact with Russia, Cory Booker's presidential bid*, Fox News Channel (Feb. 1, 2019), <https://video.foxnews.com/v/5997378977001/#sp=show-clips>.

interview.²¹ As Ms. Conway spoke, the chyron alerted viewers that she was “Counselor to President Trump.” During the interview, Ms. Conway spoke about official Administration actions and policy. Specifically, she permissibly provided the Administration’s perspective on the United States’ withdrawal from a nuclear pact with Russia and discussed the Administration’s response to activities at the southern border.

Approximately two minutes into the interview, co-host Ainsley Earhardt asked Ms. Conway for the “Administration’s reaction” to Senator Cory Booker’s candidacy, announced earlier that morning.²² In response, Ms. Conway immediately proposed a series of questions that she would ask Senator Booker, all of which revolved around flaws she perceived in his candidacy. Ms. Conway rhetorically posited, “What’s wrong with the candidates that are already in there?” and “What’s your objection to Kamala Harris running, Elizabeth Warren, Kirsten Gillibrand, these others who have already announced, Tulsi Gabbard maybe?” Ms. Conway then reflected that if Senator Booker were a “Republican running against them” he would be called a “sexist.” Next, Ms. Conway said she would ask Senator Booker “what exactly” he had accomplished to qualify him to be President. And she responded to her own question with three main points — Senator Booker was a “motivational speaker who can be tinny,”²³ his record as mayor of Newark, New Jersey, was lacking, and he could not “even bring himself to continue to help those school children through school choice” because the Democratic Party had “moved so far to the left.”

On February 11, 2019, Ms. Conway gave another interview to *Fox & Friends*.²⁴ Again, Mr. Doocy introduced Ms. Conway using her official title, and the chyron periodically read, “Kellyanne Conway Counselor to the President.” The interview questions primarily concerned negotiations with Congress, border security, and the President’s Texas rally to bring attention to border security issues.

During the interview, Mr. Doocy named all of the declared Democratic Party candidates and noted that the list could grow. Ms. Conway retorted, “Great. Keep it coming. Just remember anything times zero still equals zero,” and she outlined President Trump’s accomplishments, suggesting that they were boons for his 2020 candidacy and obstacles for the opposition.²⁵ Co-host Brian Kilmeade

²¹ A seal that read “The White House” was mounted on the wall behind Ms. Conway.

²² Nick Corasaniti & Shane Goldmacher, *Cory Booker Announces Presidential Bid, Joining Most Diverse Field Ever*, The New York Times (Feb. 1, 2019), <https://www.nytimes.com/2019/02/01/us/politics/cory-booker-2020.html> (Senator Booker announced his candidacy on February 1, 2019).

²³ Ms. Conway was quoting David Axelrod.

²⁴ *Fox & Friends, Conway Slams ‘Big-Mouth Dems’ Over Calls to Defund ICE: They’re ‘Hurling Us Toward a Shutdown,’* Fox News Channel (Feb. 11, 2019), <https://insider.foxnews.com/2019/02/11/kellyanne-conway-slams-democrats-over-calls-defund-immigration-and-customs-enforcement>.

²⁵ OSC determined on March 5, 2018, that President Trump is a candidate for reelection for purposes of the Hatch Act. See OSC’s March 2018 “Updated Guidance Regarding the Hatch Act and President Donald Trump Now That He Is Officially a Candidate for Reelection,” available at: <https://osc.gov/Resources/Candidate%20Trump%20Hatch%20Act%20Guidance%203-5-2018.pdf>.

then played clips of Senators Amy Klobuchar,²⁶ Elizabeth Warren,²⁷ and Cory Booker announcing their candidacies. After the clips ended, Mr. Doocy stated, “Well, to some it’s a binary choice, Kellyanne.” Ms. Conway responded, “Yes, and that’s why the President is likely to be reelected because his-- he will say, ‘Here is what I have done for the three and a half years, by then the four years as President.’” She again outlined the President’s accomplishments and said about the Democrats, “I’m [sic] yet to see presidential timber. I just see a bunch of presidential woodchips. And what happened this weekend is equally unimpressive.”

Ms. Conway went on to attack several of the declared Democratic candidates individually, stating:

[Senator Klobuchar] seems to be a very nice person, I guess unless you’re on her staff. She’s had some terrible articles about the way she treats them. I’ve always known her to be Minnesota nice. But you can change the A to an O and get ‘O my’ instead of Amy there because I don’t think that was a very impressive rollout. It’s a lot of sing-songy, happy talk from these folks, or it’s virulently anti-Donald Trump at all times...

Ms. Conway then noted that Senator Warren “spent decades, folks, decades appropriating somebody else’s heritage and ethnicity,” and “she’s been lying about it.” Turning to Senator Kirsten Gillibrand,²⁸ Ms. Conway expressed incredulity: “This weekend, in her fifties, apparently was the first time she’s ever eaten fried chicken, and she waited for the cameras to roll. I mean this is just silly stuff.”

2. March Interviews

On March 13, 2019, Ms. Conway gave an interview on *The Ingraham Angle* during which she criticized Senator Warren.²⁹ Host Laura Ingraham introduced Ms. Conway as Counselor to the President and asked Ms. Conway to provide “the White House’s message” in response to critics of the President’s national emergency declaration regarding the southern border. The chyron reflected Ms. Conway’s official appearance by highlighting her title, “Counselor to the President.”

Ms. Conway’s interview covered the news of the day, including President Trump’s national emergency declaration, Congress’s related vote of disapproval, and the topic of border security generally. Near the end of the interview, she turned the conversation to Senator Warren and stated, “Elizabeth Warren is running for President. She tried to appropriate somebody else’s ethnicity. She

²⁶ Dan Merica & Devan Cole, *Sen. Amy Klobuchar enters presidential race*, CNN (Feb. 10, 2019), <https://www.cnn.com/2019/02/10/politics/klobuchar-announcement-2020-president/index.html> (Senator Klobuchar announced her candidacy on February 10, 2019).

²⁷ Kate Taylor, *Elizabeth Warren Formally Announces 2020 Presidential Bid in Lawrence, Mass.*, The New York Times (Feb. 9, 2019), <https://www.nytimes.com/2019/02/09/us/politics/elizabeth-warren-2020.html> (Senator Warren announced her candidacy on February 9, 2019).

²⁸ Shane Goldmacher, *Kirsten Gillibrand, New York Senator, Joins Democratic Race for President*, The New York Times (Jan. 15, 2019), <https://www.nytimes.com/2019/01/15/us/politics/gillibrand-president-election.html?module=inline> (Senator Gillibrand announced her exploratory committee on January 15, 2019).

²⁹ The Ingraham Angle, *Kellyanne Conway: Courts and Congress failed to do their jobs on immigration for decades*, Fox News Channel (Mar. 13, 2019), <https://video.foxnews.com/v/6013716232001/#sp=show-clips>.

lied about that.” Ms. Conway then summed up her perspective on the Democratic Party’s candidates by saying she had yet to see “presidential timber” and only saw “presidential woodchips.”

Just five days later, on March 18, 2019, Ms. Conway reappeared on *Fox & Friends* to discuss, among other things, the shooting in New Zealand, border security, and the President’s proposed budget.³⁰ Although the anchors did not introduce Ms. Conway using her official title, Ms. Conway appeared in front of the White House, and the chyron read, “Kellyanne Conway Counselor to the President.”

After discussing the President’s budget and the border wall, Mr. Kilmeade turned the conversation to David Axelrod’s negative assessment of President Trump’s 2020 campaign and whether the President would be competitive in several swing states. Ms. Conway offered an overview of the President’s campaign strategy and another negative assessment of the Democratic Party’s candidates:

Now we have thirteen, we have the baker’s dozen running. Biden maybe will get in because I guess none of them think the other can actually beat Donald Trump. There’s no strategy I see. You’ve got Beto O’Rourke³¹ and you’ve got Cory Booker promising that they would nominate a woman to be the VP. Do they not think the women running are good enough to be President? So there’s a whole hot mess in the Democratic Party beginning with right over the bridge here in Virginia.

Ms. Conway concluded her assessment of the 2020 presidential race by predicting that the President would be reelected because of his policies and accomplishments.

3. April Interviews

Ms. Conway’s negative comments about the Democratic candidates increased in late April and early May 2019. On April 22, 2019, during the White House’s Easter Egg Roll festivities, Ms. Conway sat for an interview on the White House lawn with host Ainsley Earhardt from *Fox & Friends*.³² The chyron periodically displayed her official title, “Counselor to the President,” and Ms. Conway fielded questions about holiday events at the White House and the First Lady’s “Be Best” platform. Ms. Conway also provided the White House’s response to the recent spate of shootings around the globe, the Mueller investigation, and the prospect of impeachment.

While discussing the Mueller report, Ms. Conway, unprompted, brought up the Democratic Party presidential candidates. Ms. Conway told viewers that the nineteenth Democrat, U.S.

³⁰ Fox & Friends, *Kellyanne Conway reacts to Trump being blamed in New Zealand massacre*, Fox News Channel (Mar. 18, 2019), <https://video.foxnews.com/v/6015238929001/#sp=show-clips>.

³¹ See David Siders, *Beto announces bid for president*, Politico (Mar. 14, 2019), <https://www.politico.com/story/2019/03/14/beto-orourke-2020-president-1207704> (Mr. O’Rourke announced his candidacy on March 14, 2019).

³² Fox & Friends, *Kellyanne Conway talks radical Islamic terror after Sri Lanka massacre, impeachment talk after Mueller report*, Fox News Channel (Apr. 22, 2019), <https://video.foxnews.com/v/6028692010001/#sp=show-clips>.

Representative Seth Moulton,³³ had announced his candidacy and that she wanted to “remind everybody simple math.” Ms. Conway continued, “Whether it’s one, whether it’s nineteen, whether it’s fifty, anything times zero equals zero. Simple multiplication. So fifty Democrats can run. Twenty of them, nineteen are now running. But if your message is zero, it’s a big zero.”

Two days later, on April 24, 2019, Ms. Conway again gave an interview in her official capacity on *America’s Newsroom*.³⁴ She appeared in front of the White House, and the chyron read “Kellyanne Conway Counselor to the President.” On this occasion, Ms. Conway spoke about the President’s attempts to resist House Democrats’ subpoenas, the Mueller report, and the Administration’s actions to combat opioid abuse. At one point, co-anchor Sandra Smith asked Ms. Conway about former Vice President Joe Biden,³⁵ who was expected to announce his candidacy for President later in the week. In addition to commenting on Mr. Biden, who was not yet a candidate, Ms. Conway brought up a declared Democratic Party candidate, Senator Bernie Sanders.³⁶ Ms. Conway said:

I think Biden’s timing actually benefits him because the Democrats seem really desperate to find an alternative to Bernie Sanders, who is the clear announced frontrunner right now in the polling and on the ground. Bernie Sanders has a lot in common with Donald Trump, which is he doesn’t really care what his party thinks about his candidacy at this point in the primaries. He’s connecting directly with the voters. He’s raising small dollar amounts. The only difference between Bernie Sanders and Donald Trump is Bernie Sanders’s ideas are terrible for America, and Donald Trump is a much better candidate, had [sic] connective tissue with the people.

In the same response, Ms. Conway also volunteered that she had seen “women on TV complaining about ‘the female candidates aren’t covered the same’” but that those criticisms were “just hogwash” because the female candidates “have terrible ideas.” Immediately following her statements about the candidates, the interviewer transitioned to an official topic, the President’s attendance at an opioid abuse summit in Atlanta.

On April 27, 2019, Ms. Conway appeared for an interview on *Smerconish*, and the chyron identified her as “Counselor to President Trump” throughout the interview.³⁷ During this segment, Ms. Conway was pressed to provide commentary on President Trump’s “fine people” statements, which he made in 2017 after a neo-Nazi march occurred in Charlottesville, Virginia, in the midst of a national

³³ Stephanie Murray, *Seth Moulton announces 2020 bid*, Politico (Apr. 22, 2019), <https://www.politico.com/story/2019/04/22/moulton-announces-2020-bid-1284347> (Representative Moulton announced his candidacy on April 22, 2019).

³⁴ Talia Kaplan, *Kellyanne Conway to Democrats: ‘Are you going to talk for the rest of 2019 into 2020 about impeachment or infrastructure?’*, Fox News Channel (Apr. 24, 2019), <https://www.foxnews.com/politics/kellyanne-conway-to-democrats-are-you-going-to-talk-for-the-rest-of-2019-into-2020-about-impeachment-or-infrastructure>.

³⁵ Marc Caputo & Natasha Korecki, *Biden dives into 2020 race*, Politico (April 25, 2019), <https://www.politico.com/story/2019/04/25/biden-launch-1279838> (Mr. Biden announced his candidacy on April 25, 2019).

³⁶ Senator Sanders announced his candidacy on February 19, 2019. See Scott Detrow & Jessica Taylor, *Bernie Sanders Launches 2020 Presidential Campaign, No Longer An Underdog*, NPR (Feb. 19, 2019), <https://www.npr.org/2019/02/19/676923000/bernie-sanders-enters-2020-presidential-campaign-no-longer-an-underdog>.

³⁷ *Smerconish, Conway on Charlottesville, Biden, economy, opioids and pot*, CNN (Apr. 27, 2019), <https://www.cnn.com/videos/tv/2019/04/27/conway-on-charlottesville-the-economy-opioids-and-pot.cnn>.

conversation about whether to remove monuments dedicated to Confederate leaders. Ms. Conway initially replied to the question by talking about President Trump's statements. However, she pivoted to recently announced presidential candidate Joe Biden. Ms. Conway accused Mr. Biden of bringing up Charlottesville in his announcement video because "he doesn't want to be held to account for his record or lack thereof." Ms. Conway then informed viewers that she found Mr. Biden's announcement video to be "unfortunate," "a missed opportunity," and "very dark and spooky" because he "doesn't have a vision for the future." She continued to discuss Mr. Biden's candidacy and the states where President Trump could win in 2020.

On April 28, 2019, one day later, Ms. Conway appeared in studio on *State of the Union* with host Jake Tapper.³⁸ Mr. Tapper introduced Ms. Conway as Counselor to the President, and the chyron reflected her title. During this interview, Mr. Tapper asked Ms. Conway about a multitude of topics, including President Trump's comments about white nationalism, the economy, and the Mueller report. Mr. Tapper engaged Ms. Conway in an exchange about the President's response to Charlottesville, and particularly his comments that there were "fine people" on both sides. Ms. Conway brought up Mr. Biden and said that he was revisiting the Charlottesville controversy because "he has no vision, and he doesn't want to be held to account for the Obama-Biden legacy." Later she added, "... But for Joe Biden, who's been in public life, who was elected at 29, to come out and have no vision, no -- no accountability for the Obama-Biden record, didn't even mention President Obama, but mentioned Charlottesville, to try to use that for political purpose, to lie about the President..."³⁹

For the next minute and a half, Mr. Tapper attempted to redirect Ms. Conway to the issue of President Trump's response to Charlottesville. But Ms. Conway returned to the subject of Mr. Biden by asking, "Why would Joe Biden bring that up? Why is he using Charlottesville to launch a candidacy as somebody who was in the Senate for decades, who was Vice President for eight years, who's 0 for two running for President, while Donald Trump is one for one?"

After, Mr. Tapper asked Ms. Conway whether the President was concerned about the strength of the economy. Ms. Conway initially discussed the economy's prospects under the President's leadership but then, for the fourth time, turned to the topic of Mr. Biden. Ms. Conway said Mr. Biden would need to run against "the Trump legacy" on the economy and that the country would have to wait to "see if he can even get that far" because "Joe Biden had a hard week vis-à-vis the Democratic primary."

On April 30, 2019, Ms. Conway responded to reporters' questions for approximately thirty minutes while standing in the White House driveway.⁴⁰ Toward the end of the question and answer session, Conway began to walk away when a reporter called out to her, "Hey Kellyanne, one more thing. You brought up Joe Biden several times unprompted. Do you guys see him--?" Ms. Conway retorted, "How was it unprompted? He's the frontrunner!" The reporter then asked if Ms. Conway

³⁸ State of the Union, *Tapper spars with Conway over Charlottesville*, CNN (Apr. 28, 2019), <https://www.cnn.com/videos/tv/2019/04/28/sotu-conway-full.cnn>.

³⁹ *California Synagogue Shooting: Interview With Rep. Seth Moulton (D-MA); Interview With Counselor to the President Kellyanne Conway; 2020 Election Discussion. Aired 9-10a ET*, CNN, <http://www.cnn.com/TRANSCRIPTS/1904/28/sotu.01.html> (last visited May 9, 2019).

⁴⁰ See C-Span, *supra* note 16.

considered Mr. Biden the frontrunner. Ms. Conway replied by attacking the Democratic primary electorate as “sexist” and “racist” because Mr. Biden and Senator Sanders were polling as the frontrunners. She suggested that the “two old white straight men career politicians” were ahead because the electorate has “a problem with the rest of the field.”

The reporter said a few words about Mr. Biden and Senator Sanders being the “most formidable challengers to President Trump” when Ms. Conway again defended the President and attacked the opposition:

So I think the debates will be very winnowing but it’s not lost on us who the two frontrunners are among the Democratic primary electorate where I don’t vote, where Donald Trump doesn’t vote. So we’re just watching the way the Democrats assess their own field.... I think the best way for the President to get reelected is what he does in this building. It’s all the economic prosperity. They want to run against Donald Trump. They have to run against Donald Trump’s economy, too. They have to run against Donald Trump getting the remains of our brave men who fell in Korea back home, getting 19 or 20 hostages back home. Some of these hostages were there, most of them were there, when Vice President Biden was here. So he’s gonna be held to account, and I know he said that ‘I asked President Obama not to endorse me. I’m too busy getting the endorsement of firefighters but I don’t want a popular President among the Democrats’ first African American President to endorse me.’ Do any of you believe that? You let him get away with his first lie. Why’d you do that? So I will ask him if you’re not going to, ‘Hey Senator - Vice President Biden why are 28 million Americans without health insurance nine years after Obama-Biden care passed?’ He should be asked that. And I think Bernie Sanders doesn’t care what his party thinks, is connecting directly with people, and is raising money in small amounts, and goes out and has very specific points of view which is why he’s got a following. He’s a lot like Donald Trump except for good ideas, and ideas that are mainstream, and ideas that are part of a democracy and not socialism.

A different reporter next asked a question about healthcare. During her response, Ms. Conway offered negative commentary on Mr. Biden and Senator Sanders and suggested that Obamacare was an obstacle for Mr. Biden. She continued, “Is Joe Biden not endorsing Obamacare the way Obama is not endorsing Joe Biden? I wonder.”

4. *May Interview*

On May 1, 2019, during an interview in the White House driveway, Ms. Conway again brought up Mr. Biden unprompted.⁴¹ In segments of the interview that were broadcast by Lawrence O’Donnell, Ms. Conway said about her prior comments concerning Mr. Biden, “So thanks for the free commercial about all the things Joe Biden didn’t get done for the eight years he was Vice President.”

⁴¹ Lee Moran, *Lawrence O’Donnell Runs Video Of Kellyanne Conway Allegedly Breaking The Law*, Huffpost (May 2, 2019), https://www.huffpost.com/entry/lawrence-odonnell-kellyanne-conway-breaking-law-video_n_5ccea095e4b0e4d7572da402?ncid=APPLENEWS00001&guccounter=1.

Ms. Conway also commented that she found it “fascinating” that Mr. Biden said he asked former President Obama not to endorse him and that it was also going to be “fascinating” to watch the Democratic candidates who were not doing well in the polls. On the topic of those Democratic candidates, Ms. Conway dismissively said, “I can talk about them too if you like, no problem.”

* * *

The facts set forth above show that Ms. Conway engaged in a well-established pattern of using her official authority as a platform to engage in blatantly partisan attacks. Such political activity in her official capacity constitutes a clear and continuing violation of the Hatch Act.

C. Ms. Conway violated the Hatch Act’s prohibition against using her official authority or influence for the purpose of affecting the result of an election by engaging in both official and political activity on her Twitter account, “@KellyannePolls.”

As discussed above, OSC has advised that the Hatch Act prohibits an employee from engaging in political activity on a personal social media account if the employee also uses that account for official purposes. OSC reviewed over six months of posts on Ms. Conway’s Twitter account, “@KellyannePolls,” and discovered that Ms. Conway frequently posts both official and political messages on her account, in violation of the Hatch Act.

1. Ms. Conway used her Twitter account for official purposes.

Ms. Conway has one Twitter account, “@KellyannePolls,” which she created in January 2012, and has used as a tool to execute her official duties. Since Ms. Conway became Counselor to the President, the public has looked to Ms. Conway’s account for news and announcements.⁴² In fact, about 2.7 million people follow her account, a number that has more than quintupled since she assumed her official position with the White House. Furthermore, Ms. Conway confirmed her use of “@KellyannePolls” as a communication tool for official matters by appearing on a cable news network in her official capacity to discuss the President’s upcoming State of the Union address, border security, and abortion and, in that same interview, directed viewers to “@KellyannePolls” for more official information.⁴³

OSC reviewed several months’ worth of posts on “@KellyannePolls” and found that the majority of Ms. Conway’s posts were about official Administration actions, policies, and priorities.⁴⁴ Ms. Conway regularly posted about the White House’s efforts to combat the opioid crisis, a topic

⁴² The media consults “@KellyannePolls” to prepare for interviews during which Ms. Conway speaks in her official capacity. See Fox & Friends, *Kellyanne Conway: After 2 years wasted on the Russia probe, Democrats are running out of time for 2020* Fox News Channel (Mar. 25, 2019), <https://video.foxnews.com/v/6017702424001/#sp=show-clips>. The media also tweets at “@KellyannePolls” when referring to her official statements. See, e.g., Mark Knoller (@markknoller), Twitter (Dec. 14, 2018, 11:05 AM), <https://twitter.com/markknoller/status/1073655306096386048> and Mark Knoller (@markknoller), Twitter (Dec. 11, 2018, 7:08 AM), <https://twitter.com/markknoller/status/1072508329577144321>.

⁴³ Fox & Friends, *Kellyanne Conway previews President Trump’s ‘uplifting’ State of the Union address*, Fox News Channel (Feb. 5, 2019), <https://video.foxnews.com/v/5998668431001/#sp=show-clips>.

⁴⁴ OSC reviewed posts from September 2018 to May 2019.

directly related to her role in the Administration.⁴⁵ Ms. Conway also often retweeted the official posts of other Administration principals and videos of herself giving media interviews in her official capacity. Mixed with these official posts were retweets of stories about, or comments on, current news and events, which often mirrored the Administration's talking points. While a few personal messages appeared on Ms. Conway's Twitter feed, the bulk of the posts were related to her official duties.⁴⁶

2. Ms. Conway used her Twitter account for partisan political purposes.

Ms. Conway also engaged in political activity on “@KellyannePolls” on many occasions. OSC determined that between October 31 and November 6, 2018, Ms. Conway posted at least 15 messages in support of candidates running in the midterm elections or the Republican Party. For example, on November 1, 2018, Ms. Conway tweeted, “Missed you, #Michigan! The stakes are high. The choice is clear. Vote on Tuesday for @SchuetteOnDuty @JohnJamesMI @MIGOP to protect prosperity and freedom. Get to the polls!”⁴⁷ Three days before the 2018 midterm elections, on November 3, 2018, Ms. Conway responded to a message from the Republican Party Chairwoman by saying: “In my travels, blue-collar workers especially ask me to thank @POTUS for keeping his promises, for providing them with more dignity and more dollars through his trade, tax and deregulation policies. Vote @GOP to keep the gains going.”

In February 2019, as Democratic Party candidates began to announce their presidential campaigns, Ms. Conway tweeted messages in opposition to those candidates and in support of President Trump's candidacy. On February 1, 2019, Ms. Conway retweeted a *Washington Examiner* article and added, “What does Cory Booker have against all the women already running for President? Are they not good enough? Too weak? Not likeable? (They're certainly liberal enough) (Pretend he's a Republican when you read this).” On the same day, Ms. Conway posted “Listen for it” and attached a tweet from CNN's Allie Malloy quoting Ms. Conway, “First WH reaction on Cory Booker running for 2020 from @KellyannePolls: ‘I think Cory Booker often sounds like a Hallmark card and not necessarily a person who's there to tell you everything he's accomplished in the United States Senate and as Mayor of Newark.’” On February 5, 2019, Ms. Conway tweeted, “He's got this. #2020:I'mWithHim. @realDonaldTrump” along with an image of several declared Democratic Party presidential candidates. On February 11, 2019, Ms. Conway retweeted (b) (6) Fournier's post, “Senator Elizabeth Warren lives in a \$5.4 million dollar mansion, claimed ‘Native American’ status to score a Harvard gig paying \$350,000 to teach one class, and now lectures us that ‘the system is rigged to benefit the rich.’”

On March 13, 2019, Ms. Conway tweeted in response to a CNBC message about Elizabeth Warren's comment that she had “‘zero’ sympathy for parents caught in the college admissions scam,” “What a coincidence. I have ‘zero’ sympathy for adults who lie that they are Native American to gain advantage.” Ms. Conway also targeted Mr. Biden for criticism on March 31, 2019, when she tweeted,

⁴⁵ See The White House, *supra* note 15.

⁴⁶ For example, on April 25, 2019, Ms. Conway retweeted a Philadelphia Eagles' post, which welcomed a new player to the football team.

⁴⁷ In the same message, Ms. Conway also explained that she would be unable to attend a Republican get out the vote event in Michigan.

“Other problems for @JoeBiden: Pres. Obama has not endorsed; Dem donors/talent with other candidates; Stacey Abrams seems to have rebuffed his advances to make her VP on his ticket, smartly saying if she were to run, it would be for top spot, not #2.” The March 31 message also included a retweet of “@FoxNewsSunday,” which quoted Ms. Conway as saying, “If anybody just types in ‘Creepy Uncle Joe Videos’ you come up with a treasure trove... I think Joe Biden has a big problem here because he calls it affection and handshakes, his party calls it completely inappropriate.” Finally, on May 7, 2019, Ms. Conway retweeted Donald Trump Jr.’s post: “What happens when you compare the Trump economy to the Obama economy? Hint: Obama doesn’t fair too well. #MAGA [Trump campaign advertisement video],” and she wrote, “You mean the Obama-Biden economy, @DonaldJTrumpJr?”

Ms. Conway violated the Hatch Act when she used “@KellyannePolls” to engage in political activity. She posted photos and videos of herself acting in her official capacity, often referenced, retweeted, commented on, or otherwise shared material related to the Administration’s official activities, and directed viewers to the account during an official interview. Therefore, Ms. Conway used the account for official purposes. At the same time, Ms. Conway often used this account to advocate explicitly for the election of Republican candidates in the 2018 midterm elections and criticize 2020 Democratic Party candidates. In fact, she recently retweeted a Trump campaign video. This activity, which is ongoing, is directed at bolstering the President’s candidacy and that of other Republicans and defeating Democratic Party candidates and, therefore, constitutes political activity. Because Ms. Conway uses “@KellyannePolls” for both official purposes and political activity, she has violated the Hatch Act’s prohibition against using her official authority or influence for the purpose of interfering with or affecting the result of an election.

IV. CONCLUSION

A. Ms. Conway’s Hatch Act violations are egregious, notorious, and ongoing.

Beginning in February 2019, Ms. Conway, while in her official capacity, engaged in a pattern of political activity in violation of the Hatch Act. In a number of media appearances during this period she openly criticized Democratic Party presidential candidates shortly after they announced their candidacy. For example, Ms. Conway criticized some candidates for lacking in vision, being “sexist” and “tinny,” or “lying” about their ethnicity. Ms. Conway repeatedly attacked Senator Sanders and Mr. Biden when she derisively referred to both candidates as “two old white straight men career politicians” and denigrated Senator Sanders’s ideas as “terrible for America.” In one interview, Ms. Conway brought up Mr. Biden unprompted on at least four separate occasions and repeated her refrain that he lacks any “vision” and does not want “to be held to account for the Obama-Biden legacy.” Ms. Conway also compared the Democratic Party candidates to “woodchips.” This type of partisan rhetoric, although lawful on the campaign trail, violates the Hatch Act when the speaker is a White House employee acting in her official capacity.

Ms. Conway’s critiques of newly announced candidates were clearly aimed at influencing voters and the election. Indeed, OSC’s investigation revealed at least 10 interviews where Ms. Conway used her official authority in an attempt to influence the presidential election. The sheer number of occurrences underscores the egregious nature of her violations. And her actions suggest

indifference to, or unwillingness to carry out, her responsibility to abstain from prohibited political activity.

Similarly, Ms. Conway used “@KellyannePolls” for dual purposes —disseminating both official and political messages. Just days before the November 2018 midterm elections, she posted at least 15 messages in support of candidates or the Republican Party. Even after OSC informed Ms. Conway that she was violating the Hatch Act and requested that she comply with the law, she continued to misuse “@KellyannePolls.” She advocated for President Trump’s candidacy by writing in a tweet “#2020:I’mWithHim,” and she opposed various Democratic Party candidates by, for example, posting that Senator Booker sounded “like a Hallmark card” and Mr. Biden was “Creepy Uncle Joe.” This partisan speech is violative of the Hatch Act on a Twitter account used for official purposes.

B. Ms. Conway has clear knowledge of the Hatch Act and yet continues to disregard the law.

Ms. Conway is well informed about the Hatch Act. The Office of White House Counsel advised Ms. Conway about the Hatch Act’s restrictions through a formal ethics training session, individual conversations, and multiple written communications.⁴⁸ And in March 2018, OSC issued a report to the President finding that Ms. Conway twice violated the Hatch Act by engaging in political activity directed at the failure of Democratic Senatorial candidate Doug Jones in the Alabama special election.

Ms. Conway again was informed about the Hatch Act after OSC received the October 2018 complaint about her Twitter account. Following that complaint, OSC made several requests that she bring her Twitter activity into compliance with the Hatch Act, including sending a letter on December 20, 2018, to Ms. Conway about her impermissible Twitter use. In that letter, OSC informed Ms. Conway that she was engaging in both official and political activity on “@KellyannePolls” in violation of the Hatch Act, and OSC requested that Ms. Conway cure her ongoing violation by taking several steps to disentangle the political and official content on her account.⁴⁹ But Ms. Conway did not take any noticeable steps to bring her Twitter account into compliance with the law.

In furtherance of our efforts to bring Ms. Conway into compliance, OSC attempted to work with the Office of White House Counsel, including discussing Ms. Conway’s actions on a couple of occasions. At about this time, OSC also learned that Ms. Conway was using official media appearances to advocate for President Trump’s candidacy and against the Democratic Party challengers. Therefore, during those discussions, OSC informed the Office of White House Counsel that Ms. Conway’s Twitter use violated the Hatch Act and her political activity during official media appearances raised similar concerns. Subsequently, OSC sent a letter to the Deputy Counsel to the

⁴⁸ For a fuller discussion of Ms. Conway’s Hatch Act knowledge, please see OSC’s March 6, 2018 report at: <https://osc.gov/Resources/Conway%20HA-18-0966%20Final%20Report.pdf>.

⁴⁹ OSC informed Ms. Conway that either she could create a separate official Twitter account or, if she was going to continue using “@KellyannePolls” for official purposes, she must delete all existing political activity and cease to engage in political activity on the account.

President on April 9, 2019, again requesting that Ms. Conway comply with the Hatch Act as it related to her Twitter account, but to no avail. OSC also began reviewing Ms. Conway's media interviews.

C. Ms. Conway's conduct warrants her removal.

In light of her knowledge of the Hatch Act's prohibitions and the fact that just last year OSC sent a disciplinary action referral to the President for similar violations, Ms. Conway's decision to continue using her media outreach to attack Democratic Party candidates is unacceptable. Ms. Conway's continued promotion of her partisan political views during official media appearances in April and May 2019 is especially troubling given that OSC advised the Office of White House Counsel that her activity was in violation of the Hatch Act on several occasions in March of this year.

Likewise, Ms. Conway continued to use her Twitter account in violation of the law despite OSC's explicit warnings and instructions in December 2018 and April 2019 that she cease doing so. Although Ms. Conway may promote the President's agenda and defend the Administration while performing her official duties, she is prohibited from expressing her electoral preferences. Here, after being fully apprised of the Hatch Act's prohibitions, Ms. Conway continued to campaign for the President and against Democratic candidates while acting in her official capacity.

Ms. Conway's persistent, notorious, and deliberate Hatch Act violations have created an unprecedented challenge to this office's ability to enforce the Act, as we are statutorily charged. She has willfully and openly disregarded the law in full public view. As recently as May 29, 2019, Ms. Conway defiantly rejected the Hatch Act's application to her activities, dismissed OSC's 2018 findings, and flippantly stated, "Let me know when the jail sentence starts."⁵⁰ And she made it clear that she has no plans to cease abusing her official position to influence voters.

Ms. Conway's conduct undermines public confidence in the Executive branch and compromises the civil service system that the Hatch Act was intended to protect. Her knowing and blatant disregard for the law aggravates the severity of her numerous violations. The Merit Systems Protection Board (MSPB), which adjudicates Hatch Act violations, repeatedly has held that removal is the appropriate discipline when employees were warned and/or had substantial knowledge before engaging in prohibited political activity.⁵¹ In accordance with MSPB precedent involving similar aggravating factors, OSC respectfully requests Ms. Conway's removal from federal service.

⁵⁰ See Brett Samuels, *supra* note 1.

⁵¹ See, e.g., *Special Counsel v. Lewis*, 121 M.S.P.R. 109 (2014); *Special Counsel v. Ware*, 114 M.S.P.R. 128 (2010); *Special Counsel v. Briggs*, 110 M.S.P.R. 1 (2008); *Special Counsel v. Acconcia*, 107 M.S.P.R. 60 (2007); *Special Counsel v. Eisinger*, 103 M.S.P.R. 252 (2006); and *Special Counsel v. Simmons*, 90 M.S.P.R. 83 (2001).

THE WHITE HOUSE

WASHINGTON

June 24, 2019

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
House of Representatives
Washington, D.C. 20515

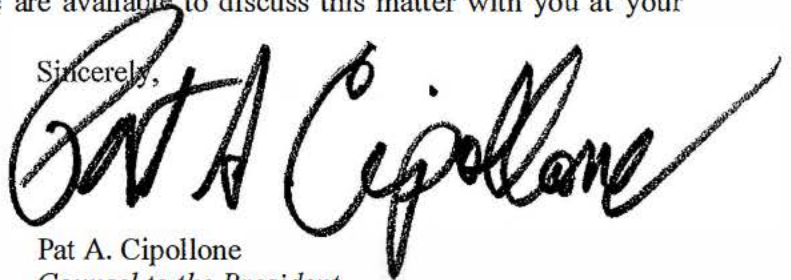
Dear Chairman Cummings:

I write regarding the Committee's letter of June 13, 2019, inviting Kellyanne Conway, Assistant to the President and Counselor to the President, to testify at a hearing a June 26, 2019. In accordance with long-standing precedent, we respectfully decline the invitation to make Ms. Conway available for testimony before the Committee.

As you know, the precedent for members of the White House staff to decline invitations to testify before congressional committees has been consistently adhered to by administrations of both political parties, and is based on clearly established constitutional doctrines. *See Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *2 (May 20, 2019) (“[T]he White House has opposed sending senior advisers to testify for almost as long as there has been an Executive Office of the President.”); *Immunity of the Assistant to the President and Director of the Office of Political Strategy and Outreach from Congressional Subpoena*, 38 O.L.C. Op. __, *1 (July 15, 2014) (“The Executive Branch’s longstanding position, reaffirmed by numerous Administrations of both political parties, is that the President’s immediate advisers are absolutely immune from congressional testimonial process.”); *see also* Letter from Robert F. Bauer, Counsel to the President, to Darrell E. Issa, Chairman, Committee on Oversight and Government Reform (June 16, 2011) (“White House staff generally do not testify before Congress.”); Letter from Lloyd N. Cutler, Counsel to the President, to Samuel S. Stratton, Chairman, Subcommittee on Investigations of the Committee on Armed Services (Sept. 30, 1980) (“Congress has always respected the privilege of the President to decline requests that the President himself or his immediate White House advisors appear to testify before Congressional committees.”).

If it would be helpful to you, we are available to discuss this matter with you at your convenience.

Sincerely,

A handwritten signature in black ink, reading "Pat A. Cipollone". The signature is fluid and cursive, with a long horizontal stroke at the end.

Pat A. Cipollone
Counsel to the President

cc: The Honorable Jim Jordan, Ranking Member

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, August 8, 2019 11:34 AM
To: Whitaker, Henry C. (OLC)
Subject: RE: (b) (5) -like question

Can you send me the Rehnquist opinions?

From: Whitaker, Henry C. (OLC) <(b) (6)>
Sent: Thursday, August 8, 2019 9:05 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: FW: (b) (5) -like question

Here's the statute.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, August 5, 2019 10:13 PM
To: Koffsky, Daniel L (OLC) <(b) (6)> Whitaker, Henry C. (OLC)
<(b) (6)>
Subject: FW: (b) (5) -like question

Dan and Henry,

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

Do you have thoughts about substance or how we should staff this?

I'm attaching a PDF of the statutory provisions governing (b) (5)

[REDACTED]

(b) (5)

Thanks,

Curtis

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Friday, August 30, 2019 9:25 AM
To: Mascott, Jennifer (OLC)
Subject: FW: (b) (5)
Attachments: (b) (5)
.pdf; (b) (5)
.pdf

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, May 13, 2019 9:38 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: FW: (b) (5)

(b) (5)

(b) (5)

See (b) (5)

(b) (5)

(b) (5)

(b) (5)

[REDACTED]

[REDACTED]

See (b) (5)

From: (b) (6) (OLC)
Sent: Monday, May 13, 2019 8:41 PM

duplicate

duplicate

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duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, September 1, 2019 2:45 PM
To: Whitaker, Henry C. (OLC (b) (6)) (OLC)
Cc: Colborn, Paul P (OLC)
Subject: RE: ODNI Opinion
Attachments: IGIC Urgent Concern Draft (9-1-2019 245).docx; IGIC Urgent Concern Draft (9-1-2019 1200) + se edits.docx

I attach a draft reflecting my edits, both as redline (with comments) and as a clean version. Please feel free to review and comment upon/improve/clean-up my edits, as appropriate. If we conclude that this version looks good, then I think that the next step is t (b) (5)

-----Original Message-----

From: Whitaker, Henry C. (OLC (b) (6))
Sent: Saturday, August 31, 2019 8:31 PM
To: (b) (6) (OLC (b) (6)) Engel, Steven A. (OLC (b) (6))
Cc: Colborn, Paul P (OLC (b) (6))
Subject: RE: ODNI Opinion

This looks good to me. I vote that Steve start with this version.

-----Original Message-----

From: (b) (6) (OLC (b) (6))
Sent: Saturday, August 31, 2019 8:13 PM
To: Engel, Steven A. (OLC (b) (6))
Cc: Colborn, Paul P (OLC (b) (6)) Whitaker, Henry C. (OLC (b) (6))
Subject: RE: ODNI Opinion

Some modest additional edits in the attached.

Thanks very much,

(b) (6)

-----Original Message-----

From: Engel, Steven A. (OLC (b) (6))
Sent: Saturday, August 31, 2019 7:22 PM
To: (b) (6) (OLC (b) (6))
Cc: Colborn, Paul P (OLC (b) (6)) Whitaker, Henry C. (OLC (b) (6))

Subject: Re: ODNI Opinion

Please do. Thanks!

Sent from my iPhone

On Aug 31, 2019, at 7:11 PM (b) (6) (OLC) (b) (6) wrote:

I'll take a quick pass through now, unless Steve has already started working on it.

> On Aug 31, 2019, at 6:59 PM, Colborn, Paul P (OLC) (b) (6) wrote:

>

> I'm happy to ask Steve to take the pen to Henry's draft.

>

> Sent from my iPhone

>

> On Aug 31, 2019, at 6:52 PM, Whitaker, Henry C. (OLC) (b) (6) wrote:

>

> Thank (b) (6). Great work. Here's my pass.

>

> I leave it up to you whether you and Paul want to take another pass through before Steve takes the pen tomorrow morning. I'm also fine to have Steve start editing this version.

>

> Henry

>

> -----Original Message-----

> From (b) (6) (OLC) (b) (6)

> Sent: Saturday, August 31, 2019 12:23 PM

> To: Whitaker, Henry C. (OLC) (b) (6)

> Cc: Engel, Steven A. (OLC) (b) (6) Colborn, Paul P

> (OLC) (b) (6)

> Subject: RE: ODNI Opinion

>

> Hi Henry. Attached please find a revised draft of the opinion, which incorporates nearly all of Paul's edits and the additional sources we discussed this morning. I've also included a redline against the version I sent you at 5:16pm yesterday. I'll be out of pocket for the next few hours, but I'll be around later tonight; tomorrow after around 3pm or so; and pretty much all of Monday.

>

> Thanks very much,

(b) (6)

>

>

> -----Original Message-----

> From: Engel, Steven A. (OLC) (b) (6)

> Sent: Saturday, August 31, 2019 11:56 AM

> To: Whitaker, Henry C. (OLC) (b) (6)

> Cc: Colborn, Paul P (OLC) (b) (6) (b) (6) (OLC)

> (b) (6)

> Subject: Re: ODNI Opinion

>

> I tend to agree [REDACTED] (b) (5) .

>

> Sent from my iPhone

>

> On Aug 31, 2019, at 11:39 AM, Whitaker, Henry C. (OLC) [REDACTED] (b) (6) wrote:

>

[REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] .

>

[REDACTED] (b) (5) .

>

> -----Original Message-----

> From: Colborn, Paul P (OLC) [REDACTED] (b) (6)

> Sent: Saturday, August 31, 2019 10:26 AM

> To: Whitaker, Henry C. (OLC) [REDACTED] (b) (6) [REDACTED] (b) (6)

> (OLC) [REDACTED] (b) (6)

> Cc: Engel, Steven A. (OLC) [REDACTED] (b) (6)

> Subject: ODNI Opinion

>

> Just read the draft. Here are some editing suggestions:

>

[REDACTED] (b) (5)
[REDACTED]
[REDACTED]

>

[REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]

>

[REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

>

[REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]

>

[REDACTED] (b) (5)

>

(b) (5)

>

> I also have the following tweaks:

>

(b) (5)

>

(b) (5)

>

(b) (5)

>

(b) (5)

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(b) (5)

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(b) (5)

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(b) (5)

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(b) (5)

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(b) (5)

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(b) (5)

>

(b) (5)

>

> Sent from my iPad

> <IGIC Urgent Concern Draft (8-31-2019 6 40 pm).docx> <IGIC Urgent

> Concern Draft (8-31-2019) (redline).docx>

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, September 1, 2019 3:12 PM
To: Gannon, Curtis E. (OLC)
Subject: RE: ODNI Opinion
Attachments: IGIC Urgent Concern Draft (9-1-2019 300).docx; IGIC Urgent Concern Draft (9-1-2019 1200) + se edits.docx

The attached reflects my edits and a redline. May be easier just to read the clean version.

If you get a moment, let me know what you think about (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Sunday, September 1, 2019 8:47 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: ODNI Opinion

Thanks. Here are some minor clean-up edits.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Sunday, September 1, 2019 10:22 AM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: Fwd: ODNI Opinion

Here's the latest. I plan to edit in the morning ET.

Sent from my iPhone

Begin forwarded message:

From: "(b) (6) (OLC)" <(b) (6)>
Date: August 31, 2019 at 8:13:24 PM EDT
To: "Engel, Steven A. (OLC)" <(b) (6)>
Cc: "Colborn, Paul P (OLC)" <(b) (6)>, "Whitaker, Henry C. (OLC)" <(b) (6)>
Subject: RE: ODNI Opinion

Some modest additional edits in the attached.

Thanks very much,
(b) (6)

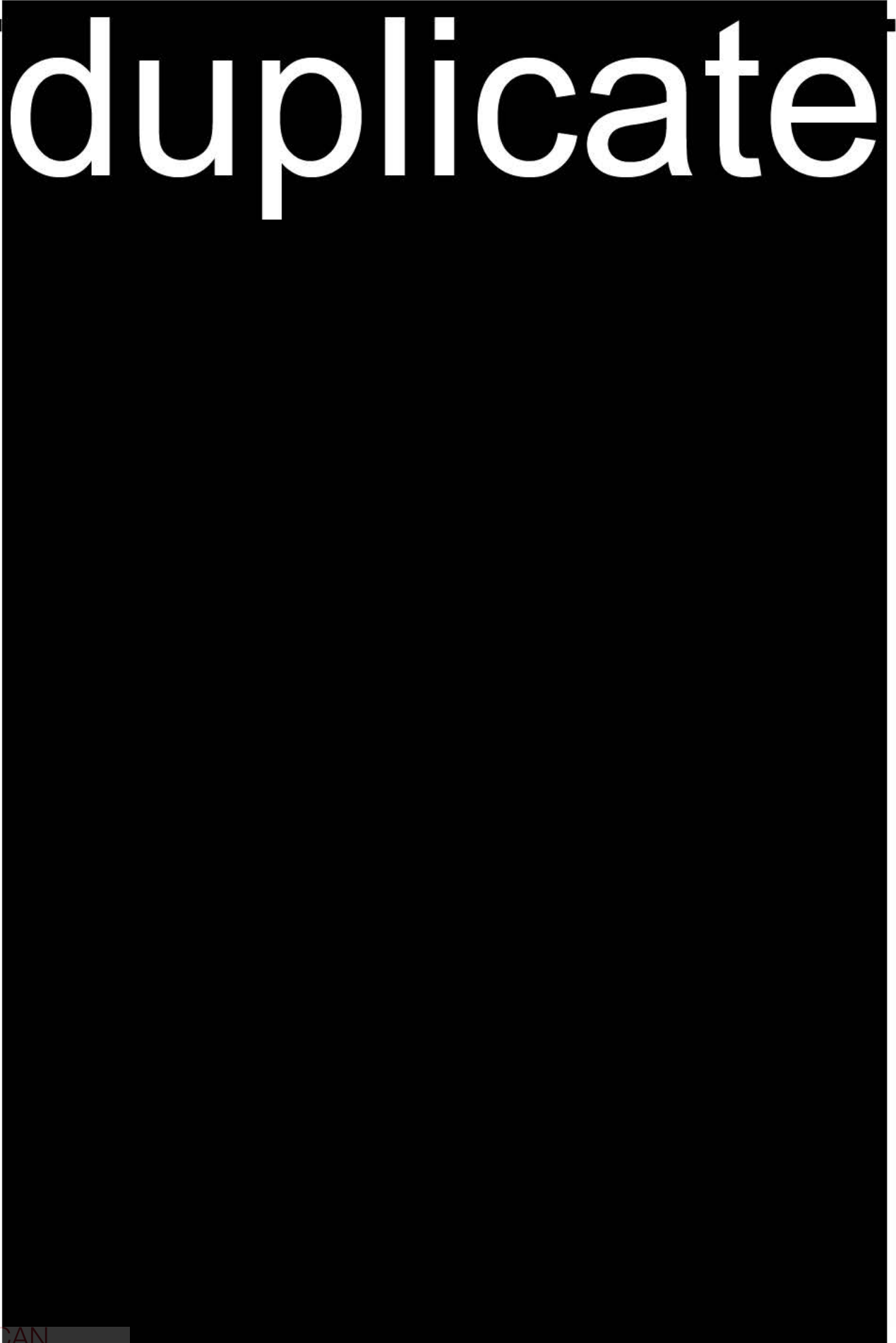
-----Original Message-----

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Saturday, August 31, 2019 7:22 PM

duplicate

duplicate

duplicate



■ duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, September 19, 2019 3:24 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: FW: (b) (5)

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, September 29, 2019 9:56 AM
To: Colborn, Paul P (OLC)
Cc: Gannon, Curtis E. (OLC)
Subject: Re: Giuliani

Thanks. [REDACTED] (b) (5)

Sent from my iPhone

On Sep 29, 2019, at 9:37 AM, Colborn, Paul P (OLC) <[REDACTED] (b) (6)> wrote:

[REDACTED] (b) (5)

Sent from my iPad

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, September 29, 2019 10:32 AM
To: Colborn, Paul P (OLC); Gannon, Curtis E. (OLC)
Subject: Giuliani says he'll testify in front of Congress if directed by Trump | TheHill

<https://thehill.com/homenews/sunday-talk-shows/463539-giuliani-says-hell-testify-in-front-of-congress-if-directed-by>

(b) (5)

Sent from my iPhone

Yes, please. Thanks!

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, September 10, 2019 9:58 AM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)>
Subject: FW: Impeachment Inquiry

Steven and Curtis,

Paul forwarded me this draft (b) (5)

_____. If that
sounds good to you, I'll aim to send you the marked up document later this week.

Thanks,

(b) (6)

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Monday, September 9, 2019 10:31 PM
To: (b) (6) (OLC) <(b) (6)>
Subject: Fwd: Impeachment Inquiry

Begin forwarded message:

From: "Engel, Steven A. (OLC)" <(b) (6)>
Date: September 9, 2019 at 8:47:29 PM EDT
To: "Colborn, Paul P (OLC)" <(b) (6)> "Gannon, Curtis E. (OLC)" <(b) (6)>
Subject: Fwd: Impeachment Inquiry

Sent from my iPad

Begin forwarded message:

(b) (5)

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, October 3, 2019 11:49 AM
To: Colborn, Paul P (OLC); (b) (6) (OLC)
Cc: Gannon, Curtis E. (OLC)
Subject: RE: (b) (5)
Attachments: DRAFT (b) (5) 2019.10.02 1615h + OLC.docx

With my edits. I will send along, unless others have comments.

From: Colborn, Paul P (OLC) <pcolborn@jmd.usdoj.gov>
Sent: Thursday, October 3, 2019 9:33 AM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: (b) (5)

Here they are.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Thursday, October 03, 2019 9:22 AM
To: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: (b) (5)

OK. I will hold up on my edits until then.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Thursday, October 3, 2019 9:18 AM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: (b) (5)

Fairly soon (I hope) I will circulate a few comments on (b) (6) comments.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, October 02, 2019 9:11 PM
To: (b) (6) (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Subject: Re: (b) (5)

Thanks!

Sent from my iPhone

On Oct 2, 2019, at 8:55 PM, (b) (6) (OLC) <(b) (6)> wrote:

Now featuring a few edits and comments from me.

Thanks,

(b) (6)

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Wednesday, October 2, 2019 6:22 PM

To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: (b) (5)

Thanks!

From: (b) (6) (OLC) <(b) (6)>

Sent: Wednesday, October 2, 2019 6:16 PM

To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: (b) (5)

Okay; thanks for letting me know. I'll start working in the document now and plan to circulate something later this evening.

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Wednesday, October 2, 2019 6:15 PM

To: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Cc: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: (b) (5)

(b) (5)

I expect to review later tonight or first thing tomorrow morning.

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Wednesday, October 2, 2019 6:14 PM

To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Cc: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: (b) (5)

Not sure. Steve?

From: (b) (6) (OLC) <(b) (6)>

Sent: Wednesday, October 02, 2019 6:12 PM

To: Colborn, Paul P (OLC) <(b) (6)>

Subject: RE: (b) (5)

Thanks, Paul. Will do. What's the timeline for our review on this?

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Wednesday, October 2, 2019 6:10 PM

To: (b) (6) (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: (b) (5)

(b) (6), I suggest you make your edits and comments on top of the ones I've made in the attached.

From: Colborn, Paul P (OLC)

Sent: Wednesday, October 02, 2019 6:01 PM

To: (b) (6) (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Subject: (b) (5)

(b) (6), please review and comment – (b) (5)

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, October 3, 2019 12:22 PM
To: (b) (6) (OLC)
Subject: Fwd: (b) (5)
Attachments: DRAFT (b) (5) 2019.10.02 1615h + OLC.docx;
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, October 7, 2019 7:02 PM
To: Colborn, Paul P (OLC); (b) (6) (OLC)
Cc: Gannon, Curtis E. (OLC)
Subject: RE: draft
Attachments: DRAFT (b) (5)
1355hvfina1 + OLC.docx

This includes my edits.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Monday, October 7, 2019 6:32 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: draft

Here they are.

From: Colborn, Paul P (OLC)
Sent: Monday, October 07, 2019 6:30 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: draft

Will send a few line edits in a few minutes.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, October 07, 2019 6:29 PM
To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: FW: draft

Let me know if you have substantive edits. (b) (5)

I'm going over the letter now and comparing with our earlier comments.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Monday, October 7, 2019 6:13 PM
To: (b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Subject: FW: draft

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, October 13, 2019 5:01 PM
To: (b) (6) (OLC); (b) (6) (OLC); (b) (6) (OLC); Gannon, Curtis E. (OLC)
Subject: Fwd: (b) (5)
Attachments: (b) (5).pdf; ATT00001.htm

(b) (5) ?

Sent from my iPhone

Begin forwarded message:

(b) (5)

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, October 14, 2019 9:32 AM
To: (b) (6) (OLC); Gannon, Curtis E. (OLC)
Cc: (b) (6) (OLC); (b) (6) (OLC)
Subject: RE: Impeachment Draft Opinion
Attachments: 2019.10.14 Impeachment Draft Opinion.docx

In the attached draft, (b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Sunday, October 13, 2019 6:07 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)>
Subject: FW: Impeachment Draft Opinion

Thanks, Curtis. It's 6:00 (well, close to it), so I'm pulling myself out of the draft. I've attached a revised version that incorporates new and edited text from (b) (6) (b) (6) and me. All changes are tracked.

There are a couple of areas for further research:

- (b) (5)
(b) (5), and I'll work with (b) (6) to stitch together whatever we both come up with.
- (b) (5)
- I need to work on the "sources" folder on the G-Drive to make sure that all the relevant materials, especially (b) (5), are uploaded there. I'll plan to finish that tonight.

I'm sure additional items will come up as you review. For now, are there any other research/writing items that I've forgotten?

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Saturday, October 12, 2019 4:33 PM
To: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>;
(b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: Impeachment Draft Opinion

Thanks again for all of this research and writing, (b) (6) which is a great start. While I haven't really edited the draft, I have made many line edits throughout, without redlining them. I have included several marginal comments (b) (5)

(b) (5)

I have, partly at (b) (6) suggestion, identified a couple of discrete projects for (b) (6) and (b) (6) and I have identified a couple of subsections that I can proceed to rework in the meantime.

Let's touch base by tomorrow morning about how quickly you think it is feasible to turn this (or at least portions of it).

From: Gannon, Curtis E. (OLC)

Sent: Saturday, October 12, 2019 10:26 AM

To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: RE: Impeachment Draft Opinion

Thanks very much, (b) (6) I'm working through the draft with the aim of sending some high level comments by this afternoon. In the meantime, if anyone is working on pieces or inserts, please work from this re-formatted draft, to make inserts easier.

From: (b) (6) (OLC) <(b) (6)>

Sent: Friday, October 11, 2019 8:09 PM

To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: Impeachment Draft Opinion

Steve and Curtis,

I've attached my current draft of the Impeachment opinion. (b) (5)

Many, but not all, of the cited sources are available [here](#); I'll finish uploading the materials tomorrow. I'll also (b) (5).

Additionally, both (b) (6) and (b) (6) have some text that they've drafted and plan to add into the draft (I circulated an earlier version to them earlier today). I'll defer to them on whether they would like to add it at this stage or wait until they've had an opportunity to get further into their research.

Thanks,

(b) (6)

(b) (6)

Attorney-Adviser, Office of Legal Counsel
U.S. Department of Justice, (b) (6)

(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, October 16, 2019 10:03 AM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: impeachment outline
Attachments: 2019.10.13 Impeachment Draft Opinion + ceg (through Part I) + OLC + sae comments.docx

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, October 16, 2019 3:36 PM
To: (b) (6) (OLC); Gannon, Curtis E. (OLC); (b) (6) (OLC); (b) (6) (OLC)
Cc: Colborn, Paul P (OLC)
Subject: RE: Impeachment opinion
Attachments: 2019.10.13 Impeachment Draft Opinion + ceg (through Part I) + OLC + (b) (6) + sae.docx

Thanks, (b) (6) The attached contains some additional edits from me through the end of Part I.

(b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, October 16, 2019 12:01 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: Impeachment opinion

Thanks Steve and Curtis. I've attached a revised draft with several changes to Part I. Please let me know if there are other sources that you would like to include. (b) (5)

(b) (6)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, October 15, 2019 6:14 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Subject: Impeachment opinion

Curtis made additional edits through the end of Part I. The attached reflect my redlines on top of those edits.

Most of my edits can simply be accepted, (b) (5)

Can someone (b) (6), unless you are otherwise engaged) take a crack at redrafting (b) (5)

[REDACTED]

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Saturday, October 19, 2019 12:38 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: updated Part I
Attachments: 2019.10.17 Impeachment Draft Opinion + SAE.docx

Here are my latest revisions to Part I.

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, October 20, 2019 8:52 PM
To: Gannon, Curtis E. (OLC)
Subject: RE: How goes it?
Attachments: 2019.10.20 Impeachment Draft Opinion 2 pm + sae.docx

My edits through page 7.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Sunday, October 20, 2019 4:53 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: How goes it?

Go ahead. I'm still in (b) (5) and haven't put in your post-2pm edits.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Sunday, October 20, 2019 4:49 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: How goes it?

I'm back on-line. Will work from the 2 pm version, unless you want to send me a newer one.

From: Engel, Steven A. (OLC)
Sent: Sunday, October 20, 2019 3:50 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: How goes it?

I got pulled away and now have to go run an errand. But here are some edits through the end of Part I. I'll pick up where I left off when I get back. Or you can send me a later version, if more efficient.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Sunday, October 20, 2019 2:56 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: Re: How goes it?

Agreed.

On Oct 20, 2019, at 14:46, Engel, Steven A. (OLC) <(b) (6)> wrote:

Two thoughts – if relevant to the section you are working on: (1) (b) (5)
(b) (5)
(b) (5)
(b) (5)
(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Sunday, October 20, 2019 2:33 PM

To: Engel, Steven A. (OLC) <(b) (6)>

Subject: Re: How goes it?

(b) (5).

On Oct 20, 2019, at 14:13, Engel, Steven A. (OLC) <(b) (6)> wrote:

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Sunday, October 20, 2019 2:10 PM

To: Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: How goes it?

If you've started editing/commenting, ignore this. If not, use the 2 pm version, which corrects a couple of typos in the 1 pm version. Or, if you won't start until after 245, let me know when you're about to start, and I'll send you the most current.

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Sunday, October 20, 2019 1:42 PM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: Re: How goes it?

Great! I will take a pass through it.

Sent from my iPhone

On Oct 20, 2019, at 1:25 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

(b) (6) and I have just traded partial drafts. Here's a document that includes both our sections. If you want to start now, you could edit the first 12 pages and Part IV (at pp. 24-25). I should be able to get through most of the portions in the intervening pages by early evening.

Though minor clean-up by AAs needs to be done throughout, I'm basically done with the following:

- (b) (5) (where minor redlining shows non-citecheck changes from what you had edited);
- (b) (5) (including your previous insert);
- parts of the discussion of (b) (5), which won't be long, but I think (b) (6) or (b) (6) could work up today);
- (b) (5)

(b) (6) has extensively reworked (b) (5)

(b) (5)

?

-----Original Message-----

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Sunday, October 20, 2019 12:55 PM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: How goes it?

What's your timing, when it comes to circulating a draft of some or all?

Sent from my iPad

<2019.10.20 Impeachment Draft Opinion 1 pm (to (b) (6) docx>

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, October 21, 2019 10:13 AM
To: Hardy, Liam P. (OLC)
Subject: FW: Impeachment (b) (5)
Attachments: 2019.10.21 Imp Draft Op 2am (CEG + (b) (6) + SAE to p7).docx

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, October 21, 2019 9:11 AM
To: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: Impeachment (b) (5)

This is a more current draft, which reflects (b) (5) and many comments from (b) (6) and Steve (though not yet Steve's reply to my redlined responses in the first seven pages). It is still missing (b) (5), and I'm still editing (b) (5).

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Monday, October 21, 2019 8:24 AM
To: (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>; Engel, Steven A. (OLC) <(b) (6)>
Subject: Re: Impeachment (b) (5)

Will be reviewing Curtis's draft from home for awhile this morning because (b) (6).

Sent from my iPad

On Oct 20, 2019, at 3:04 PM, (b) (6) (OLC) <(b) (6)> wrote:

Sounds good Curtis, will do.

On Oct 20, 2019, at 2:03 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

?

(b) (6) and (b) (6)

I'm attaching the current draft of the entire opinion, about half of which reflects my revisions, and about half of which I'm still working through (as generally noted in comment bubbles).

(b) (5)

Could the two of you please work on inserts for that section (which is (b) (5))?

Given (b) (6) work (b) (5) (b) (6) could work on discussing (b) (5)

Thanks,

Curtis

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Friday, October 18, 2019 10:20 PM
To: (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: Re: Impeachment (b) (5)

I think (b) (5)
(b) (5)
(b) (5)
(b) (5)

Sent from my iPad

On Oct 18, 2019, at 6:47 PM, (b) (6) (OLC) <(b) (6)> wrote:

Hi all,

(b) (5)
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(b) (5)

[illegible]

<2019.10.20 Impeachment Draft Opinion 2 pm (to (b) (6) and (b) (6)).docx>

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, October 21, 2019 2:46 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE
Attachments: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE.docx

Here's my latest

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, October 21, 2019 10:08 PM
To: Gannon, Curtis E. (OLC)
Subject: RE: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE
Attachments: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE 2145.docx

What do you think of this added paragraph (b) (5) ?

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, October 21, 2019 9:32 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE

Got it. (b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, October 21, 2019 9:26 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: Re: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE

I think there may be a garble in my edits, but here's the text:

(b) (5)

|| _____

Sent from my iPhone

On Oct 21, 2019, at 9:23 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

Maybe. I couldn't find (b) (5).

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, October 21, 2019 9:23 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: Re: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE

Didn't I?

On Oct 21, 2019, at 9:22 PM, Engel, Steven A. (OLC) <(b) (6)> wrote:

I moved it to the text.

Sent from my iPhone

On Oct 21, 2019, at 9:21 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

Nothing urgent on this small point, but (b) (5)

?

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Monday, October 21, 2019 7:31 PM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE

Edits through (b) (5).

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, October 21, 2019 10:19 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE 2145
Attachments: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE 2145.docx

With additional tweaks.

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, October 22, 2019 11:59 AM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE 900 10-22
Attachments: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE 900 10-22.docx

Attached are my additional edits, which run through the end of (b) (5) (as noted, I accepted all of the edits from the redline that I sent to you at 7 pm last night. And made redlines starting last night.)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, October 22, 2019 5:19 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE 900 10-22
Attachments: 2019.10.21 Imp Draft Op 2am (CEG + SAE to p7) + SAE 900 10-22.docx

This version includes what I sent you earlier, plus my edits to Part IV.

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, October 23, 2019 3:28 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: Part III
Attachments: 2019.10.23 Imp Draft Op 10 am + SAE Pt. III.docx

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, October 24, 2019 8:23 PM
To: Philbin, Patrick F. EOP/WHO
Subject: FW: OLC response to IGs
Attachments: IC IG Letter to OLC.pdf; OLC Whistleblower Opinion_October 22 2019 FINAL v4_PDF.PDF

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, October 24, 2019 9:16 PM
To: Gannon, Curtis E. (OLC)
Cc: Hardy, Liam P. (OLC)
Subject: RE: Impeachment op -- current draft
Attachments: 2019.10.24 Imp Draft Op -- 8 pm (CEG responses to SAE except for Pt III) + SE review.docx

I've accepted nearly all your edits. Made a few tweaks of my own in redline. And added a few comments.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Thursday, October 24, 2019 8:02 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Impeachment op -- current draft

This has my redlined comments on all of your changes except Part III. (Copying Liam in case he could use some additional reading material—though the draft is still evolving a little.)

From: Gannon, Curtis E. (OLC)
Sent: Thursday, October 24, 2019 3:20 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: Impeachment op -- current draft

This has my comments on all of your changes up until Part II.D.

From: Gannon, Curtis E. (OLC)
Sent: Thursday, October 24, 2019 10:58 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: Impeachment op -- current draft

If you haven't actually started, use this (which has (b) (5), but some additional redlines from me elsewhere).

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Thursday, October 24, 2019 9:10 AM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: Impeachment op -- current draft

Thanks. will work from this in redlines. (primarily (b) (5)).

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Thursday, October 24, 2019 9:05 AM

To: Engel, Steven A. (OLC) <[REDACTED] (b) (6)>

Subject: Impeachment op -- current draft

Here is the current complete draft, with comment bubbles noting the status of subparts.

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Saturday, October 26, 2019 2:26 PM
To: (b) (6) (OLC); Gannon, Curtis E. (OLC); Colborn, Paul P (OLC); (b) (6) (OLC); (b) (6) (OLC)
Cc: Hardy, Liam P. (OLC)
Subject: RE: Draft impeachment opinion
Attachments: 2019.10.24 Imp Draft Op -- 1030 pm (CEG responses to SAE except for Pt III) + SAE.docx

Attached are edits from me through the end of Part II. I'll hold up on re-reading Part III and Part IV until the next draft.

From: Engel, Steven A. (OLC)
Sent: Saturday, October 26, 2019 1:48 PM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

Now with an attachment. This has edits through the end of Part II.C.2. Just starting on the judges section.

From: Engel, Steven A. (OLC)
Sent: Saturday, October 26, 2019 1:44 PM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

Yes. I think my earlier one just had (b) (5). This one has more edits.

(I'll continue to work from this document, but when I circulate again the new edits will only be after page 15.)

From: (b) (6) (OLC) <(b) (6)>
Sent: Saturday, October 26, 2019 1:42 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6)
(OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

Okay, thanks. I'll incorporate the changes from the version you sent at 10:53 (which I think is your most recent, but let me know if there's another) into the master.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Saturday, October 26, 2019 1:32 PM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

If someone has the master draft, this has new edits from through page 15. (I added the new paragraph I just poked out, with a few tweaks.)

From: (b) (6) (OLC) <(b) (6)>
Sent: Saturday, October 26, 2019 1:28 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

Sounds good; I'll plan to include these edits (b) (5) in this evening's consolidated AA draft.

Thanks,
(b) (6)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Saturday, October 26, 2019 1:18 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Saturday, October 26, 2019 10:53 AM
To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

Further to that, here's a proposal (b) (5)

(b) (5)

From: Engel, Steven A. (OLC)

Sent: Saturday, October 26, 2019 10:39 AM

To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6)

(OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: Draft impeachment opinion

(b) (5)

What do you think about something

like the following:

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Friday, October 25, 2019 6:01 PM

To: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: Draft impeachment opinion

(b) (5)

One way to do that would be to include something like the following, either in the text or in a footnote

(b) (5)

(b) (5)

(b) (5)

1. *Journal of the American Medical Association*, 1997; 277: 1001-1005.

(b) (5) [REDACTED]

(b) (5)

(b) (5)

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, October 27, 2019 10:00 AM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: FW: Draft impeachment opinion
Attachments: 2019.10.24 Imp Draft Op -- 1030 pm (CEG responses to SAE except for Pt III) + MASTER 10.26 2200 (sae(end of part II) + (b) (6) + (b) (6) + (b) (6)).docx

How do you want to handle the draft? I'm going through now and reviewing the edits, which are generally pretty good. I can just review and accept and flip you a cleaner draft. Or if you're already working on it, can wait on you?

From: (b) (6) (OLC) <(b) (6)>
Sent: Saturday, October 26, 2019 10:01 PM
To: Engel, Steven A. (OLC) (b) (6) >; Gannon, Curtis E. (OLC) <(b) (6)>; Colborn, Paul P (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

Thanks, everyone. I've attached the newest version of the master, which incorporates edits from Steve (who has edited through the end of Part II), (b) (6), (b) (6) (who may offer more thoughts tomorrow), and me.

(b) (5)

Thanks and GO NATS,

(b) (6)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Saturday, October 26, 2019 2:26 PM

duplicate

duplicate

duplicate

duplicate

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duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, October 27, 2019 11:06 AM
To: Colborn, Paul P (OLC); (b) (6) (OLC)
Cc: Gannon, Curtis E. (OLC); (b) (6) (OLC); (b) (6) (OLC); Hardy, Liam P. (OLC)
Subject: RE: Draft impeachment opinion
Attachments: 2019.10.27 Imp Draft Op.docx

The attached reflects my review, as well as Paul's first round of edits. I have reviewed the redlines and comments and accepted/removed the ones where the issues now appeared to be resolved. I left in several comments that appeared to present live issues, e.g., calling for further edits and review. And I left my edits from this morning as redlines, so that other eyes may review them before they are incorporated. Thanks to all for the good work on this!

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Sunday, October 27, 2019 9:51 AM
To: (b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> >; Hardy, Liam P. (OLC) <(b) (6)>
Subject: Re: Draft impeachment opinion

P.S. I should be able to comment on the rest of the opinion by 1:00 or 2:00.

On Oct 27, 2019, at 9:49 AM, Colborn, Paul P (OLC) <(b) (6)> wrote:

I just read through page 13. I think (b) (5)

Here are some tweaks:

(b) (5)

Sent from my iPad

AMERICAN
OVERSIGHT

DOJ-19-1193-A-000129

On Oct 26, 2019, at 10:01 PM, (b) (6) (OLC) <(b) (6)> wrote:

duplicate

duplicate

duplicate

duplicate

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, October 29, 2019 12:09 PM
To: Gannon, Curtis E. (OLC); (b) (6) (OLC)
Cc: Colborn, Paul P (OLC); (b) (6) (OLC); (b) (6) (OLC); Hardy, Liam P. (OLC)
Subject: RE: Draft impeachment opinion
Attachments: 2019.10.29 Imp Draft Op.docx

I attach an updated version of the draft. I accepted all of the redlines from last night, and then made a new round of edits. (I left in the comments.) Some of those (b) (5)

(b) (6)

(b) (6)

(b) (6)

From: Engel, Steven A. (OLC)
Sent: Monday, October 28, 2019 7:12 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

The attached reflects my review of the latest edits. I've accepted the edits (except as noted) and then made some additional redlines.

Where the comments appeared to have been adjudicated/answered, I deleted them. but I still left in those with continuing relevance.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, October 28, 2019 4:30 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>;
(b) (6) (OLC) <(b) (6)>; Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

This has some new citations from (b) (6) and a few more clean-up edits from me in Parts I & II. As previously promised, my revisions to Part III will come after the Nats win last night's game.

From: (b) (6) (OLC) <(b) (6)>
Sent: Sunday, October 27, 2019 7:52 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>;
(b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Sunday, October 27, 2019 1:43 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: Draft impeachment opinion

(b) (5)

[Redacted]

(b) (5)

(b) (5)

1. *Journal of the American Medical Association*, 2000; 283: 2689-2693.

(b) (5)

(b) (5)

(b) (5)

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Sunday, October 27, 2019 12:00 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)> <(b) (6)> (OLC) <(b) (6)> <(b) (6)> (OLC)
<(b) (6)>; Hardy, Liam P. (OLC) <(b) (6)>
Subject: Re: Draft impeachment opinion

(b) (5)

On Oct 27, 2019, at 11:55 AM, Engel, Steven A. (OLC) <(b) (6)> wrote:

(b) (5)

Sent from my iPhone

On Oct 27, 2019, at 11:47 AM, (b) (6) (OLC) <(b) (6)> wrote:

(b) (5)

(b) (5)

All cited sources are available on the [G-Drive](#).

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Sunday, October 27, 2019 10:12 AM

To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)

<(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> (b) (6) (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: Draft impeachment opinion

(b) (5)

?

From: (b) (6) (OLC) <(b) (6)>

Sent: Saturday, October 26, 2019 10:01 PM

duplicate

duplicate

duplicate

duplicate

duplicate

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, October 30, 2019 2:30 PM
To: Gannon, Curtis E. (OLC)
Subject: RE: 2019.10.29 Imp Draft Op + pc + (b) (6) 2 + lph + ceg
Attachments: 2019.10.30 Imp Draft Op.docx

Your edits look good. I have reviewed and accepted them. There may be a couple of additional tweaks here. so perhaps work from this one, if you haven't gotten too far into Part II.C.3?

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, October 30, 2019 2:11 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: 2019.10.29 Imp Draft Op + pc + (b) (6) 2 + lph + ceg

I'm through Part II.C.2 ((b) (5)).

This has my edits to the draft that had your revisions, plus Paul's, (b) (6)'s, and Liam's.

I've accepted your changes, left in redlines from others to which I don't object, and added my own redlines.

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, November 4, 2019 10:28 AM
To: (b) (6) (OLC)
Cc: Gannon, Curtis E. (OLC)
Subject: RE: Resolution 660 Passed
Attachments: 2019.11.4 Imp Draft Op 900.docx

Thanks, (b) (6) Can you fold your new edits into this draft, which contains my edits to the introduction.

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, November 4, 2019 10:04 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: Resolution 660 Passed

I saw a draft from Cutis "2019.10.30 Imp Draft Op + ceg" at 3:48. I assume you and Curtis continued to trade drafts thereafter until the "2019.10.30 Imp Draft Op 740pm" version. While you were doing that, I was reading through and inputting some source cite changes on (b) (5) in the earlier version. The attached transfers my notes and proposed changes (where applicable) into the 740pm draft. Also, please note that the 740pm draft is currently being source cited by the paralegal team, so there will be some tweaks coming from them as well.

I have not yet integrated my insert into the draft. I'm currently making some further changes to the drop-in in light of a conversation I had with Curtis on Friday.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, November 4, 2019 8:43 AM
To: (b) (6) (OLC) <(b) (6)>
Subject: RE: Resolution 660 Passed

Is there a more recent version of the impeachment opinion than this one?

(b) (5) ?

From: (b) (6) (OLC) <(b) (6)>
Sent: Thursday, October 31, 2019 11:32 AM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: Resolution 660 Passed

The full chamber just voted to approve House Resolution 660. Here's a copy of the text of the resolution as well as (b) (5).

(b) (6)

(b) (6)

Attorney-Adviser, Office of Legal Counsel
U.S. Department of Justice, (b) (6)

(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, November 4, 2019 7:57 PM
To: (b) (6) (OLC)
Cc: Gannon, Curtis E. (OLC)
Subject: RE: (b) (5)
Attachments: 2019.11.4 Imp Draft Op 2000.docx

Thanks! Here's the latest version of the draft, with an expanded (b) (5). It's still a little rough, but should give us something to work from.

I haven't marked the changes in the draft.

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, November 4, 2019 7:37 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: (b) (5)

Steve,

I've pasted below some supporting citations (b) (5) we discussed earlier, in case they would be helpful as you review the draft. I'm also happy to integrate these citations once you've circulated.

Thanks,
(b) (6)

(b) (5)

[REDACTED]

(b) (6)
Attorney-Adviser, Office of Legal Counsel
U.S. Department of Justice, (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 5, 2019 9:19 AM
To: (b) (6) (OLC); Gannon, Curtis E. (OLC); Colborn, Paul P (OLC)
Cc: (b) (6) (OLC); (b) (6) (OLC)
Subject: RE: (b) (5) Collection

OK, thanks. For that footnote, (b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, November 5, 2019 9:17 AM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: FW: (b) (5) Collection

FYI. This is a collection of (b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 5, 2019 9:20 AM
To: (b) (6) (OLC)
Subject: RE: (b) (5) Collection

I'm editing the draft again this morning. should be done before 10 am, I think.

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, November 5, 2019 9:17 AM

duplicate

duplicate

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 5, 2019 2:59 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: impeachment opinion
Attachments: 2019.11.5 Imp Draft Op 1500.docx

Here's the latest.

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, November 6, 2019 12:41 PM
To: Gannon, Curtis E. (OLC)
Cc: (b) (6) (OLC)
Subject: RE: HR 660
Attachments: 2019.11.5 Imp Draft Op 1500 + ceg + sae.docx

This reflects my review and general acceptance of your edits, plus a few additional edits and comments of my own.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 6, 2019 12:09 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Steve,

Here are some suggestions from me on top of yesterday afternoon's draft. There are still a few paragraphs (b) (5) that I want to think about or edit. But I'll be out for the next 90 minutes or so, so feel free to take a pass through what's here if that's convenient. I'll check in before trying to resume editing.

I'm copying (b) (6) not to give her the pen, but (1) because some of my comment bubbles are about citation-type things and (2) she's still looking into some things related to some of the edits I've made here (b) (5).

Thanks,

Curtis

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, November 5, 2019 5:59 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Perhaps we could (b) (5)

(b) (5)

From: (b) (6) (OLC)
Sent: Tuesday, November 5, 2019 12:54 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)>; Gannon, Curtis E. (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Here's my turn, including Paul's edits to the introduction. I'm continuing to work (outside the document) on a few sentences (b) (5)

From: (b) (6) (OLC)
Sent: Tuesday, November 5, 2019 12:14 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

I'll add these to the draft I'm currently editing and plan to circulate to the wider group shortly.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 5, 2019 12:10 PM
To: Colborn, Paul P (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>;
Gannon, Curtis E. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Thanks, Paul.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Tuesday, November 5, 2019 12:00 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>;
Gannon, Curtis E. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: RE: HR 660

Here are some tweaks to the introduction.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 05, 2019 11:11 AM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Hardy, Liam P. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)> > (b) (6)
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

The attached reflects an edited and updated version of the draft opinion.

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, November 4, 2019 7:28 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Hardy, Liam P. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6)
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Some initial thoughts: (b) (5)

(b) (5)

(b) (5)

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, November 4, 2019 5:04 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> > (b) (6) (OLC) <(b) (6)>
Subject: HR 660

(b) (5)

(b) (5)

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, November 7, 2019 8:53 AM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: FW: HR 660
Attachments: 2019.11.6 Imp Draft Op + (b) (6).docx

Do you want to review the cite-check?

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, November 6, 2019 11:23 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

I've attached a version of the clean draft that includes cite check edits from the paralegals (for Parts I and II) and cite check edits from me (for Parts III through the end), along with some more general comments. I've also added (b) (5)

I have a separate document where I'm collecting comments relevant to the cite check process, and I'll make sure to discuss relevant points with the paralegal team.

From: (b) (6) (OLC)
Sent: Wednesday, November 6, 2019 7:39 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Will do. Thanks, Steve. I'll plan to send a few suggested tweaks, both from me and from the paralegals' cite check, later this evening.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, November 6, 2019 7:35 PM
To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Attached is the latest draft of the opinion and a compare version to the one generally circulated yesterday morning. Most of the edits are (b) (5), and reflect edits from Curtis and me.

(b) (6), as Curtis predicted, I removed all of his comments, a number of which relate to sourcing. So please keep track of those comments for purposes of the citecheck.

From: (b) (6) (OLC) <(b) (6)>

Sent: Tuesday, November 5, 2019 12:54 PM

duplicate

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Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, November 7, 2019 2:27 PM
To: Gannon, Curtis E. (OLC); Colborn, Paul P (OLC); Hardy, Liam P. (OLC); (b) (6) (OLC); (b) (6) (OLC); (b) (6) (OLC)
Subject: RE: HR 660
Attachments: 2019.11.7 Imp Draft Op 1430.docx

This reflects my pass. I've incorporated most of the redlines, made a few of my own (left as redlines), and left in the comments with prospective effect.

(b) (6) I think (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Thursday, November 7, 2019 12:31 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

This incorporates Paul's edits ((b) (5)), accepts most of (b) (6) changes, and adds some additional edits from me. (Please convey to paralegals, (b) (6))

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Thursday, November 7, 2019 12:08 PM
To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Here they are. Just nits, tweaks and mundane comments.

From: Colborn, Paul P (OLC)
Sent: Thursday, November 07, 2019 11:01 AM
To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

I expect to circulate a few nits/tweaks by noon.

From: (b) (6) (OLC) <(b) (6)>

Sent: Wednesday, November 06, 2019 11:23 PM

duplicate

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, November 7, 2019 2:34 PM
To: Rabbitt, Brian (OAG); Moran, John (OAG); O'Callaghan, Edward C. (ODAG); Raman, Sujit (ODAG)
Cc: Gannon, Curtis E. (OLC) (b) (6)
Subject: OLC impeachment opinion
Attachments: 2019.11.7 Imp Draft Op 1430.docx

I attach a draft OLC opinion (b) (5)

Happy to provide more background, if desired. Steve

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, November 11, 2019 11:26 AM
To: Gannon, Curtis E. (OLC)
Subject: RE: HR 660
Attachments: 2019.11.8 Imp Draft Op 1300 + (b) (6) + sae.docx

Here's my pass. I accepted some of (b) (6)'s more trivial edits, but left in the ones I thought required more thought. I added one sentence to reflect Paul's issue, albeit two paragraphs later.

I tend to think (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, November 11, 2019 11:10 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: HR 660

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, November 11, 2019 11:09 AM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: HR 660

Ok, cool. So I'll send you the draft, and then you can fold in your mark-ups.

I feel generally similar to you. (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, November 11, 2019 11:07 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: HR 660

I'm partway through, marking up by hand. (b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, November 11, 2019 11:06 AM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: FW: HR 660

Have you reviewed these yet? I'm going to go through these and Paul's, and then will kick you a draft reflecting my pass.

From: (b) (6) (OLC) <(b) (6)>
Sent: Saturday, November 9, 2019 6:14 PM
To: Engel, Steven A. (OLC) <(b) (6)>; Gannon, Curtis E. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6)
(b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Thanks, Steve. The attached draft adds (b) (5). All changes are tracked.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Friday, November 8, 2019 1:05 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6)
(b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Good edits and additions. I tweaked (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Friday, November 8, 2019 12:15 PM
To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Thanks, (b) (6) Meanwhile, here are some mild edits to the draft, which include (b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Friday, November 8, 2019 11:44 AM
To: Colborn, Paul P (OLC) <(b) (6)>; Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

I want to bring everyone's attention to (b) (5) that I had not previously seen. I'm still working my way through it, (b) (5)

(b) (5) —

In addition, I tweaked (b) (5) :

(b) (5)
[Redacted text block]

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Thursday, November 7, 2019 3:20 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

I agree with Steve's tweaks (b) (5) [Redacted]
[Redacted], so that it
now reads as follows:

(b) (5)
[Redacted text block]

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Thursday, November 7, 2019 2:40 PM

To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: RE: HR 660

(b) (5)

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Thursday, November 07, 2019 2:28 PM

To: Colborn, Paul P (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: RE: HR 660

Why don't you take a look at the latest draft and see what I did? On a quick review, I might have reached the same conclusions that you did.

I also tweaked the language (b) (5)

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Thursday, November 7, 2019 2:26 PM

To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: RE: HR 660

All good except that, after talking with Curtis, I am addressing in the attached his comments on my comments on pages 35-37.

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Thursday, November 07, 2019 12:31 PM

To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: RE: HR 660

This incorporates Paul's edits (though I've indicated my disagreement with a few of them), accepts most of (b) (6) changes, and adds some additional edits from me. (Please convey to paralegals, (b) (6))

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Thursday, November 7, 2019 12:08 PM

To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

(b) (6) (OLC) <(b) (6)> P; Gannon, Curtis E. (OLC) <(b) (6)>; Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

Here they are. Just nits, tweaks and mundane comments.

From: Colborn, Paul P (OLC)
Sent: Thursday, November 07, 2019 11:01 AM
To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: HR 660

I expect to circulate a few nits/tweaks by noon.

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, November 06, 2019 11:23 PM

duplicate

duplicate

duplicate

duplicate



Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, November 14, 2019 10:46 AM
To: (b) (6) (OLC)
Cc: Gannon, Curtis E. (OLC)
Subject: RE: HR 660
Attachments: 2019.11.14 Imp Draft Op.docx

Here's a mostly clean version, except for (b) (5)

(b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Thursday, November 14, 2019 10:14 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: Re: HR 660

(b) (5). (I'm having trouble with VPN, so I can't quote the text.)

Sent from my iPhone

On Nov 14, 2019, at 10:10 AM, Engel, Steven A. (OLC) <(b) (6)> wrote:

(b) (5)

(b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Thursday, November 14, 2019 9:36 AM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: Re: HR 660

And I think so as well.

Sent from my iPhone

On Nov 14, 2019, at 9:29 AM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

Yes, I think so.

(b) (5)

Additionally, the paralegal source cite is now complete, so I can add those changes into the Master whenever convenient.

From: (b) (6) (OLC)
Sent: Monday, November 11, 2019 8:27 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC)
<(b) (6)>
Subject: RE: HR 660

Thanks, Steve and Curtis. I'll look into (b) (5) (along with a few other small points I wanted to follow up on).

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, November 11, 2019 6:18 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Subject: RE: HR 660

Thanks for fixing (b) (5)

(b) (5)

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, November 11, 2019 5:59 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Subject: RE: HR 660

I've reviewed and accepted the edits. This version includes a few of my own, plus the comments that remain germane.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, November 11, 2019 5:35 PM
To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC)
<(b) (6)>

Subject: RE: HR 660

Thanks, (b) (6) Steve took a pass through your edits, and this adds mine on top. I expect him to go through and accept many of the redlines, but I'm copying you so that you can see several of the comment bubbles. I've highlighted two near the end that raise questions for (minor) research or thinking.

From: (b) (6) (OLC) <(b) (6)>

Sent: Saturday, November 9, 2019 6:14 PM

duplicate

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Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Friday, November 15, 2019 8:50 AM
To: (b) (6) (OLC)
Cc: Gannon, Curtis E. (OLC) (b) (6)
Subject: FW: draft opinion
Attachments: 2019.11.6 Imp Draft Op (b) (5).docx

I'm reviewing and incorporating now.

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Friday, November 15, 2019 11:21 AM
To: Hardy, Liam P. (OLC); Paul P Colborn (OLC) (b) (6)
Subject: FW: draft opinion
Attachments: 2019.11.6 Imp Draft Op (b) (5).docx

Comments (b) (5)

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 19, 2019 4:33 PM
To: Gannon, Curtis E. (OLC); (b) (6) (OLC)
Subject: RE: draft opinion
Attachments: 2019.11.19 Imp Draft Op 1630.docx

Here you go. A few additional edits.

Should we add (b) (5) ?

Once you're fine with this, let's create a clean version and then do a compare version to the (b) (5) Thanks!

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Tuesday, November 19, 2019 4:11 PM
To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: draft opinion

I've revised (b) (5). Full opinion attached, but they now read as follows:

(b) (5)

[REDACTED]

[REDACTED]

(b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, November 19, 2019 2:43 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: draft opinion

Thanks, Steve. I'm out of the office for a briefing until a bit after 4, but I'll turn to this when I return.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 19, 2019 2:38 PM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: draft opinion

Thanks, (b) (6). The attached reflects my pass/review of Curtis's edits. I left them as redlines, except for accepting some of Curtis's deletions from my new edits.

I added the URL cites. Please check that I did it correctly.

(b) (5)

Would appreciate your checking the new additions, as well as filling in the cites (b) (5). Thanks!

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, November 19, 2019 2:17 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: draft opinion

A few small notes from me:

(1) (b) (5)

(2) (b) (5)

(b) (5) Once we have that draft, I'll compare it to the last one that the paralegals cite checked and check any new citations myself (I'll also do a fuller run though to see if I spot anything else that should be tweaked for accuracy). Also, just a reminder that (b) (6) has not yet formatted this opinion.

Thanks,

(b) (6)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Tuesday, November 19, 2019 1:54 PM

To: Engel, Steven A. (OLC) <(b) (6)>

Cc: (b) (6) (OLC) <(b) (6)>

Subject: RE: draft opinion

P.P.S. (b) (5)

From: Gannon, Curtis E. (OLC)

Sent: Tuesday, November 19, 2019 9:24 AM

To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: draft opinion

P.S. (b) (5)

From: Gannon, Curtis E. (OLC)

Sent: Tuesday, November 19, 2019 9:22 AM

To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: draft opinion

Here's my pass. I have line-edited, mostly on top of Steve's edits, but also in a few other places. (b) (5)

From: Gannon, Curtis E. (OLC)

Sent: Monday, November 18, 2019 4:47 PM

To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: draft opinion

Thanks, (b) (6) I'll take a look now.

From: (b) (6) (OLC) <(b) (6)>

Sent: Monday, November 18, 2019 2:39 PM

To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: draft opinion

Thanks, Steve. Unless Curtis wants to take the pen, I can plan to work on this tonight.

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Monday, November 18, 2019 12:33 PM

To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: draft opinion

subject: draft opinion.

The attached reflects my efforts to (b) (5) into the draft. Can you guys review and let me know what you think?

I think that we can (b) (5)

(b) (6) I left one footnote whole for you to fill in (concerning (b) (5)).

From: (b) (6) (OLC) <(b) (6)>

Sent: Friday, November 15, 2019 1:17 PM

To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: draft opinion

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Friday, November 15, 2019 10:36 AM

To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Subject: FW: draft opinion

Attached are (b) (5) the draft and my incorporation of the smaller edits. What do we think about (b) (5)

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, November 20, 2019 5:53 PM
To: Gannon, Curtis E. (OLC); Colborn, Paul P (OLC)
Subject: RE: (b) (5)
Attachments: (b) (5) 11.20.2019 + OLC.docx

The attached includes my edits and should include yours as well. I rephrased (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 20, 2019 5:47 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: (b) (5)

Here are mine, on top of Paul's.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, November 20, 2019 5:45 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: (b) (5)

I'll have edits.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 20, 2019 5:45 PM
To: Colborn, Paul P (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: (b) (5)

I'll have a few more minor edits.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Wednesday, November 20, 2019 5:38 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Subject: FW: (b) (5)
Importance: High

I've made a few edits in the attached. I assume we need to send comments ASAP, (b) (5)

(b) (5)

(b) (5)

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, November 21, 2019 4:32 PM
To: Gannon, Curtis E. (OLC); (b) (6) (OLC); (b) (6) (OLC)
Cc: Colborn, Paul P (OLC); Hardy, Liam P. (OLC); (b) (6) (OLC)
Subject: RE: OLC impeachment opinion
Attachments: 2019.11.21 Imp Draft Op.docx

Attached is the latest draft, which largely incorporates all of the redlines from last night.

I added a (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 20, 2019 10:51 PM
To: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>;
Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

Here's my pass through Paul's, (b) (6)'s, and (b) (6)'s suggestions. Thanks to all three for their careful review.

I accepted or rejected many of (b) (6)'s cite-checking or typographical changes.

I imported many stylistic and other changes from (b) (6) (and generally left them in redline).

I have tweaked stylistic or substantive suggestions from all three and have added a few new ones of my own (all in redline).

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, November 20, 2019 4:40 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

I took a pass through the opinion and proposed some mostly stylistic suggestions. This doesn't include Paul's and (b) (6)'s edits, but I'm happy to transfer mine to their document if that would be helpful.

Very impressive stuff!

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 20, 2019 3:29 PM
To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>;
Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6),

(b) (6) (OLC) < (b) (6) >; (b) (6) (OLC) < (b) (6) >

Subject: RE: OLC impeachment opinion

Thanks. I will go through this. After that, (b) (6) can do a style check. But neither of those steps should stop others from reviewing and making substantive comments.

From: (b) (6) (OLC) < (b) (6) >

Sent: Wednesday, November 20, 2019 3:26 PM

To: Gannon, Curtis E. (OLC) < (b) (6) > Colborn, Paul P (OLC) < (b) (6) >

Engel, Steven A. (OLC) < (b) (6) > Hardy, Liam P. (OLC) < (b) (6) > (b) (6)

(OLC) < (b) (6) > (b) (6) (OLC) < (b) (6) >

Subject: RE: OLC impeachment opinion

The attached reflects my proposed edits, combined with Paul's. Please note in particular my comment on (b) (5)

(b) (5)

Also, (b) (6) came by earlier to ask when he might be able to get into the draft for formatting purposes. Any ideas on the timing?

Thanks,

(b) (6)

From: Gannon, Curtis E. (OLC) < (b) (6) >

Sent: Wednesday, November 20, 2019 1:23 PM

To: Colborn, Paul P (OLC) < (b) (6) > Engel, Steven A. (OLC) < (b) (6) >

Hardy, Liam P. (OLC) < (b) (6) > (b) (6) (OLC) < (b) (6) > (b) (6)

(OLC) < (b) (6) >

Cc: (b) (6) (OLC) < (b) (6) >

Subject: RE: OLC impeachment opinion

(b) (5)

On one of Paul's comments: (b) (5)

(b) (5)

?

From: Colborn, Paul P (OLC) < (b) (6) >

Sent: Wednesday, November 20, 2019 12:59 PM

To: Engel, Steven A. (OLC) < (b) (6) > Hardy, Liam P. (OLC) < (b) (6) >

(b) (6) (OLC) < (b) (6) > (b) (6) (OLC) < (b) (6) >

Cc: Gannon, Curtis E. (OLC) < (b) (6) > (b) (6) (OLC) < (b) (6) >

Subject: RE: OLC impeachment opinion

I've made some editing suggestions in the attached. They are mostly nits and tweaks.

(b) (5)

?

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 19, 2019 5:27 PM
To: Hardy, Liam P. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>;
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: OLC impeachment opinion

Attached is the latest draft of the impeachment opinion. We have made a number of edits over the past week, (b) (5).

Of most substantive significance, (b) (5)

(b) (5)

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Monday, November 25, 2019 7:23 PM
To: Gannon, Curtis E. (OLC) (b) (6)
Subject: impeachment draft
Attachments: 2019.11.25 Imp Draft Op (b) (6) + SAE.docx

Here you go. With my various edits, all but one of (b) (6)'s edits, and some of Paul's edits. (I statted a few).

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 26, 2019 1:07 PM
To: Gannon, Curtis E. (OLC)
Subject: RE: OLC impeachment opinion
Attachments: 2019.11.25 Imp Draft Op (b) (6) + SAE + ceg + SAE.docx

Back to you.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 10:48 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

This includes my acceptance of many of (b) (6)'s edits, my responses to your edits from yesterday (mostly accepting, with some objecting comment bubbles, highlighted in comment bubbles you can delete after accepting or rejecting the point), some minor retooling (b) (5)

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 8:52 AM
To: Hardy, Liam P. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: Fwd: OLC impeachment opinion

(b) (5)

Begin forwarded message:

From: "Gannon, Curtis E. (OLC)" <(b) (6)>
Date: November 25, 2019 at 10:42:51 PM EST
To: "Engel, Steven A. (OLC)" <(b) (6)>
Subject: RE: OLC impeachment opinion

I assume you saw that (b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

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Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 26, 2019 3:11 PM
To: Gannon, Curtis E. (OLC)
Subject: RE: Insert re (b) (5)
Attachments: 2019.11.26 Imp Draft Op (1510).docx

Here you go. I accepted all edits. Back to you. Thanks!

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 3:07 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: Insert re (b) (5)

This folds in the insert, and has a few other remaining redlined nits (including the ones I showed you in hard copy). Tinker as you want in redline.

I can then proofread and accept changes, salvage the comments for later sharing with (b) (6), and create a redline against the last version (b) (5).

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 2:56 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: Insert re (b) (5)

OK by me. thanks!

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 2:54 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: Insert re (b) (5)

Good. With some nits.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 2:41 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: Insert re (b) (5)

With my suggested edits.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 2:14 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Subject: Insert re Rule XI

Here's a clean copy of (b) (5) section with the two footnotes moved partly into the text.

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 26, 2019 3:48 PM
To: Koffsky, Daniel L (OLC); Whitaker, Henry C. (OLC); Hardy, Liam P. (OLC); Mascott, Jennifer (OLC)
Cc: Gannon, Curtis E. (OLC) (b) (6)
Subject: FW: OLC impeachment opinion
Attachments: 2019.11.26 Imp Draft Op (1530).docx

FYSA, and for anyone interested in a light read, I attach the near-final version of the impeachment opinion. (b) (5)

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, November 26, 2019 5:37 PM
To: (b) (6) (OLC)
Subject: FW: OLC impeachment opinion
Attachments: 2019.11.26 Imp Draft Op (1530) + pc.docx

For version control purposes, why don't you put your edits on top of paul's?

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 5:26 PM
To: Engel, Steven A. (OLC) <(b) (6)>; Hardy, Liam P. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

I've made some editing suggestions in the attached, (b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 3:52 PM
To: Hardy, Liam P. (OLC) <(b) (6)>; Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)>; (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: FW: OLC impeachment opinion

Attached is the latest draft of the impeachment opinion. (b) (5)
(b) (5)
(b) (5)
(b) (5)
(b) (5)
thanks!

(b) (5)

(b) (5)

duplicate

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, November 27, 2019 8:59 AM
To: Gannon, Curtis E. (OLC); (b) (6) (OLC); Colborn, Paul P (OLC); Hardy, Liam P. (OLC); (b) (6) (OLC); (b) (6) (OLC); (b) (6) (OLC)
Subject: RE: OLC impeachment opinion
Attachments: 2019.11.27 Imp Draft Op.docx

Many thanks for all these. This incorporates nearly all of the redlines (b) (5) and adds a handful of tweaks of my own. I left the comments in the draft.

I'm going to give it a final read this morning.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 2:26 AM
To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> >; (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

Thanks. This adds my proofreading changes on top of Paul's and (b) (6)'s. (In the PDF, my changes are in orange, (b) (6)'s in red, and Paul's in blue.) Yellow highlighting marks a few comment bubbles that have minor questions about cite-checking style.

Blue highlighting marks a comment bubble (b) (5).

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 10:10 PM
To: Colborn, Paul P (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> >; (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

The attached adds my proposed edits and comments to Paul's draft.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Tuesday, November 26, 2019 5:26 PM

duplicate

duplicate

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, December 3, 2019 9:06 AM
To: (b) (6) (OLC); Gannon, Curtis E. (OLC); (b) (6) (OLC)
Subject: RE: OLC impeachment opinion
Attachments: 2019.12.3 Imp Draft Op.docx

[Please use this version](#)

From: Engel, Steven A. (OLC)
Sent: Tuesday, December 3, 2019 9:04 AM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

This draft accepts all of the edits. What do you guys think of these additional edits, on (b) (5) ?

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, December 2, 2019 7:52 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

A few responses from me.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, December 2, 2019 7:32 PM
To: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, December 2, 2019 7:01 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Monday, December 2, 2019 7:00 PM
To: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: FW: OLC impeachment opinion

My inconclusive exchange with (b) (6) about (b) (5)

From: Gannon, Curtis E. (OLC)

Sent: Monday, December 2, 2019 6:27 PM

To: (b) (6) (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

Thanks. (b) (5)

From: (b) (6) (OLC) <(b) (6)>

Sent: Monday, December 2, 2019 5:57 PM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: Re: OLC impeachment opinion

(b) (5)

(b) (6)

Office of Legal Counsel

(b) (6)

On Dec 2, 2019, at 5:53 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

?

(b) (6) — we haven't yet finalized the impeachment opinion, but maybe that will happen tonight or tomorrow. Below, I asked a citation-style question: (b) (5)

From: Gannon, Curtis E. (OLC)

Sent: Monday, December 2, 2019 5:48 PM

To: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC)

<(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

Thanks very much, (b) (6). I've implemented many of your comments and responded to some comment bubbles (a couple of which still need to be implemented). I also added (b) (5)

That reminds me of one lingering citation concern I've had: (b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Monday, December 2, 2019 5:19 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC)
<(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

I gave this a proofread and made some minor suggestions in the attached. Looks very clean.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Sunday, December 1, 2019 6:45 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC)
<(b) (6)> (b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC)
<(b) (6)>
Subject: Re: OLC impeachment opinion

(b) (5) (although on the iPhone it shows as starting one space in from the margin).

Sent from my iPhone

On Dec 1, 2019, at 5:26 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

?

Thanks. (b) (6) This accepts the edits (b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Sunday, December 1, 2019 3:50 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

This all looks good to me. And I've double checked (b) (5) for good measure. It was, unsurprisingly, correct.

Just let me know if there's anything I should look into.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Sunday, December 1, 2019 3:44 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC)
<(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

Yes. That works for me.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Sunday, December 1, 2019 3:40 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC)
<(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

(b) (5)

[REDACTED]

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Sunday, December 1, 2019 3:16 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC)
<(b) (6)>
Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

Here's the latest, which I believe accepts all of the edits.

How about the following (b) (5)

[REDACTED]

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Sunday, December 1, 2019 2:59 PM

To: Colborn, Paul P (OLC) <(b) (6)> Engel, Steven A. (OLC)

<(b) (6)>

Cc: (b) (6) (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

This includes a variant of Paul's suggestions (b) (5), responds to Steve's and (b) (6)'s comments from yesterday, and adds (b) (5).

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Saturday, November 30, 2019 5:18 PM

To: Engel, Steven A. (OLC) <(b) (6)>

Cc: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> (b) (6) (OLC) <(b) (6)> Hardy, Liam P.

(OLC) <(b) (6)>

Subject: Re: OLC impeachment opinion

Or "(b) (5)"

On Nov 30, 2019, at 5:11 PM, Colborn, Paul P (OLC) <(b) (6)> wrote:

Still looking great. I have one editing suggestion. (b) (5)

I do not feel strongly about this edit.

On Nov 30, 2019, at 2:55 PM, Engel, Steven A. (OLC) <(b) (6)> wrote:

With most of those edits accepted, plus a few responsive comments.

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Saturday, November 30, 2019 2:23 PM

To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6)

(OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

This accepts most of Steve's edits, responds to others, answers questions, and makes a few other minor line-edit suggestions.

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Saturday, November 30, 2019 12:28 PM

To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6)

(OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

Please use this version. Thanks, Steve

From: Engel, Steven A. (OLC)

Sent: Saturday, November 30, 2019 12:01 PM

To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)>; Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

I took another pass through the opinion and made a few edits/comments, mostly directed at tightening. This version accepts the edits in yesterday's draft (except, I think, (b) (5), with a few tweaks).

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Friday, November 29, 2019 10:38 AM

To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

Here's an alternate sentence to introduce (b) (5):

(b) (5)

These attachments reflect Steve's other edits.

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Friday, November 29, 2019 10:31 AM

To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)

<(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

(b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Friday, November 29, 2019 10:28 AM
To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC)
<(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)> Engel, Steven A. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

Thanks, Curtis. That all works for me. (b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Friday, November 29, 2019 9:57 AM
To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC)
<(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)> Engel, Steven A. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

Thanks, (b) (6) I haven't done a full proofread, but here are my responses to your nits. I would accept most but push back on a couple.

From: (b) (6) (OLC) <(b) (6)>
Sent: Friday, November 29, 2019 8:54 AM
To: Colborn, Paul P (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)> Engel, Steven A. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

A few additional nits from my most recent read-through. One substantive suggestion appears at (b) (5).

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 6:39 PM
To: Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>; Engel, Steven A. (OLC) <(b) (6)>
Subject: Re: OLC impeachment opinion

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Sent from my iPad

On Nov 27, 2019, at 6:08 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

This draft of the opinion (b) (5)

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Wednesday, November 27, 2019 5:29 PM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Subject: Re: OLC impeachment opinion

(b) (5)

(b) (5)

Sent from my iPhone

Sent from my iPad

Sent from my iPad

On Nov 27, 2019, at 5:01 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

?

(b) (5)

In the first: (b) (5)

In the second: (b) (5)

(b) (5)

(b) (5)

[Redacted]

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 4:37 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

I suggest (b) (5) :

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 3:25 PM
To: (b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC)
<(b) (6)>
Cc: Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: OLC impeachment opinion

Thanks. (b) (6) (b) (5)

[Redacted]

Here's a stab, (b) (5) :

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

I'm copying Paul and including the current draft of the opinion.

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 2:51 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Hardy, Liam P. (OLC)
<(b) (6)>
Subject: FW: OLC impeachment opinion

Curtis and Liam,

I've attached a draft opinion checklist, which includes proposed headnotes. (b) (5)

(b) (5)

(b) (5)

Thanks,

(b) (6)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 2:13 PM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

(b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 2:09 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

Will do. I'm working on that right now. Do we have a copy of the opinion request?

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 2:06 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

Here's the latest. I just accepted all of the edits in Curtis's last draft. Still intend to do one final read through.

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 11:24 AM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

This adds my citation tweak (b) (5) and omits the comment bubbles.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 11:03 AM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

Great. here's the latest opinion draft. This includes Paul's tweaks too.

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 11:02 AM
To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

That's exactly what I was going to mention. Looks good to me.

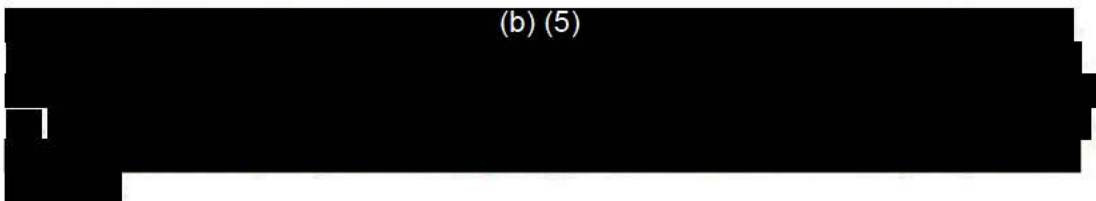
From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 11:01 AM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

Actually, one tweak.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 10:58 AM
To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)
<(b) (6)>
Subject: RE: OLC impeachment opinion

How about this:

(b) (5)



From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, November 27, 2019 10:55 AM

Sent: Wednesday, November 27, 2019 10:55 AM

To: (b) (6) (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

Thanks. What do you think of this?

From: (b) (6) (OLC) <(b) (6)>

Sent: Wednesday, November 27, 2019 10:51 AM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

(b) (5)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

I would recommend adding the following (b) (5)

[Redacted]

(b) (5)
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
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[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Wednesday, November 27, 2019 9:20 AM

To: (b) (6) (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

Hmm. I don't know what happened to it. (b) (5)

?

From: (b) (6) (OLC) <(b) (6)>

Sent: Wednesday, November 27, 2019 9:17 AM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Subject: RE: OLC impeachment opinion

I'm not finding the research question. Maybe the comment got deleted? Or maybe I'm just missing it?

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Wednesday, November 27, 2019 2:26 AM

duplicate

duplicate

duplicate

duplicate

duplicate

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, December 3, 2019 1:06 PM
To: Gannon, Curtis E. (OLC); Colborn, Paul P (OLC)
Subject: Fwd: draft letter
Attachments: (b) (5).docx; ATT00001.htm

Thoughts on this letter?

Sent from my iPhone

Begin forwarded message:

(b) (5)

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, December 3, 2019 1:48 PM
To: Gannon, Curtis E. (OLC) (b) (6) Paul P Colborn (OLC)
(b) (6)
Subject: 2019.12.3 Imp Draft Op 1345
Attachments: 2019.12.3 Imp Draft Op 1345.docx

Thoughts?

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, December 4, 2019 8:59 AM
To: Gannon, Curtis E. (OLC); Colborn, Paul P (OLC)
Subject: RE: 2019.12.3 Imp Draft Op 1345
Attachments: 2019.12.4 Imp Draft Op.docx

The attached reflect my edits. Let me know what you think, particularly about (b) (5)

[REDACTED]

(b) (5)
[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Wednesday, December 4, 2019 3:49 AM

To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Subject: RE: 2019.12.3 Imp Draft Op 1345

Here is a somewhat longer version of [REDACTED] (b) (5)

I'm attaching a redline, but here's a clean version of the entire subsection:

(b) (5)

[1]

AMERICAN
OVERSIGHT

DOJ-19-1193-A-000242

Document ID: 0.7.672.7939

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Tuesday, December 3, 2019 6:37 PM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: 2019.12.3 Imp Draft Op 1345

Looks good. I've made some tweaks (b) (5) of the attached.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, December 03, 2019 1:48 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject: 2019.12.3 Imp Draft Op 1345

Thoughts?

[1]

(b) (5) [REDACTED]

[2]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Wednesday, December 4, 2019 6:56 PM
To: Gannon, Curtis E. (OLC); Colborn, Paul P (OLC); (b) (6) (OLC); (b) (6) (OLC); Hardy, Liam P. (OLC); (b) (6) (OLC)
Subject: RE: OLC draft opinion
Attachments: 2019.12.5 Imp Draft Op.docx

Without pretermittting any further discussion on the comments, this clean version accepts nearly all of the edits.

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Wednesday, December 4, 2019 6:47 PM
To: Colborn, Paul P (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Engel, Steven A. (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

Thanks, all. This adds Paul's nit and responds to (b) (6)'s comments. (b) (5)

(b) (5)

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Wednesday, December 4, 2019 5:41 PM
To: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> > Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

One nit for (b) (6)'s edits: (b) (5)

(b) (5)

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, December 04, 2019 4:52 PM
To: Colborn, Paul P (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

I've attached my turn of the opinion, which includes substantive comments along with cite check changes for the new text from both Melissa and me.

(b) (5)

(b) (5)

(b) (5)

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Wednesday, December 4, 2019 4:30 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

How about: (b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, December 04, 2019 4:22 PM
To: (b) (6) (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

Thanks, (b) (6) That seems a step in the right direction.

From: (b) (6) (OLC) <(b) (6)>
Sent: Wednesday, December 4, 2019 4:14 PM
To: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

(b) (5)

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, December 4, 2019 4:06 PM
To: Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

Any thoughts on (b) (5)

From: Engel, Steven A. (OLC)
Sent: Wednesday, December 4, 2019 12:15 PM
To: Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) Paul P Colborn (OLC) <(b) (6)>
Subject: FW: OLC draft opinion

The attached reflects some additional edits, principally (b) (5)
[REDACTED] Let us know if you have any additional comments,
etc. And (b) (6) please do or cause a proof/citecheck (b) (5). thanks, Steve

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
[REDACTED]

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, December 17, 2019 3:05 PM
To: (b) (6) (OLC); Gannon, Curtis E. (OLC); Colborn, Paul P (OLC)
Cc: Hardy, Liam P. (OLC)
Subject: RE: OLC draft impeachment opinion
Attachments: 2019.12.17 Imp Draft Op.docx

Thanks, (b) (6) (b) (5)
I also accepted all of the edits, but we should give a close scrub of the new additions.

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, December 17, 2019 9:36 AM
To: Engel, Steven A. (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC draft impeachment opinion

Thanks, Steve. The additional text that you propose looks good to me, and I've dropped it into the attached draft. I've also included (b) (5)
I'll re-update the "supra"s once we settle on exactly where the new footnote should go.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Monday, December 16, 2019 5:51 PM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC draft impeachment opinion

Thanks, (b) (6) (b) (5)
[Redacted]

What do we think about adding a sentence (b) (5) 1 to say something like:

(b) (5)
[Redacted]

(b) (5)

From: (b) (6) (OLC) <(b) (6)>

Sent: Monday, December 16, 2019 11:04 AM

To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Colborn, Paul P (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

This all looks good to me. The attached updates the "*supra*" cites and suggests adding a citation (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Saturday, December 14, 2019 3:56 PM

To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>

Colborn, Paul P (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

Here are some tweaks for (b) (5). We'll also have to update several "*supra* note" references.

From: Engel, Steven A. (OLC) <(b) (6)>

Sent: Saturday, December 14, 2019 12:33 PM

To: Gannon, Curtis E. (OLC) <(b) (6)> (b) (6) (OLC)

<(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

The attached incorporates last week's edits, adds a new footnote (b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Sunday, December 8, 2019 7:12 PM

To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

(b) (5)

Thanks!

(b) (5)

From: Gannon, Curtis E. (OLC)

Sent: Sunday, December 8, 2019 7:07 PM

To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

Thanks, (b) (6) (b) (5)

From: (b) (6) (OLC) <(b) (6)>

Sent: Sunday, December 8, 2019 7:01 PM

To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

(b) (5)

From: Gannon, Curtis E. (OLC) <(b) (6)>

Sent: Sunday, December 8, 2019 2:02 PM

To: (b) (6) (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

Thanks, Paul and (b) (6) I've tweaked the sentence (b) (5)

Separately, I've tweaked (b) (5)

(b) (5)

From: (b) (6) (OLC) <(b) (6)>

Sent: Sunday, December 8, 2019 10:44 AM

To: Colborn, Paul P (OLC) <(b) (6)> Gannon, Curtis E. (OLC) <(b) (6)>

Cc: Engel, Steven A. (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>

Subject: RE: OLC draft impeachment opinion

This looks good Curtis. I did some further research yesterday and this morning (b) (5)

Two suggestions:

(b) (5)

From: Colborn, Paul P (OLC) <(b) (6)>

Sent: Sunday, December 8, 2019 8:48 AM

To: Gannon, Curtis E. (OLC) <(b) (6)>

Cc: (b) (6) (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>

Hardy, Liam P. (OLC) <(b) (6)>

Subject: Re: OLC draft impeachment opinion

(b) (5)

Sent from my iPad

On Dec 7, 2019, at 8:20 PM, Gannon, Curtis E. (OLC) <(b) (6)> wrote:

Thanks, (b) (6) No need to follow-up tonight, but (b) (5)

to read as follows:

(b) (5)

A comment bubble explains (b) (5) :

(b) (5)

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: (b) (6) (OLC) <(b) (6)>
Sent: Saturday, December 7, 2019 4:15 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Engel, Steven A. (OLC) <(b) (6)>
Colborn, Paul P (OLC) <(b) (6)> Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC draft impeachment opinion

Thanks, Curtis. This all looks great (and I cite checked the revised report citations). (b) (6) had actually done the deep-dive on (b) (5) and I've attached a copy of the email reporting his findings. Perhaps we should adjust the draft to (b) (5) ?

From: Gannon, Curtis E. (OLC) <(b) (6)>
Sent: Saturday, December 7, 2019 3:34 PM
To: Engel, Steven A. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Hardy, Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: OLC draft impeachment opinion

Adding (b) (6) and Liam. I've tweaked both of Paul's edits and made a couple more of my own. The changes are limited to pages (b) (5).

(b) (5). I have asked a substantive question about (b) (5).

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Friday, December 6, 2019 9:28 AM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

And in the attached I renew an editing suggestion for (b) (5) and add a corresponding tweak.

From: Colborn, Paul P (OLC)
Sent: Thursday, December 05, 2019 12:10 PM
To: Engel, Steven A. (OLC) <(b) (6)>
Cc: Gannon, Curtis E. (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

I have a comment (b) (5) the attached.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Wednesday, December 04, 2019 6:56 PM
To: Gannon, Curtis E. (OLC) <(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
(b) (6) (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)> Hardy,
Liam P. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Subject: RE: OLC draft opinion

Without pretermittting any further discussion on the comments, this clean version accepts nearly all of the edits.

<2019.12.5 Imp Draft Op + pc + ceg2.pdf>

<2019.12.5 Imp Draft Op + pc + ceg2.docx>

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Tuesday, December 17, 2019 3:35 PM
To: Colborn, Paul P (OLC); (b) (6) (OLC); Gannon, Curtis E. (OLC)
Cc: Hardy, Liam P. (OLC)
Subject: RE: OLC draft impeachment opinion
Attachments: 2019.12.17 Imp Draft Op.docx

Thanks. this version also includes a few edits from Curtis.

From: Colborn, Paul P (OLC) <(b) (6)>
Sent: Tuesday, December 17, 2019 3:17 PM
To: Engel, Steven A. (OLC) <(b) (6)> (b) (6) (OLC) <(b) (6)>
Gannon, Curtis E. (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC draft impeachment opinion

In the attached I suggest (b) (5)

I'm ok with the other redlined changes in the draft (b) (6) circulated this morning.

From: Engel, Steven A. (OLC) <(b) (6)>
Sent: Tuesday, December 17, 2019 3:11 PM
To: (b) (6) (OLC) <(b) (6)> Gannon, Curtis E. (OLC)
<(b) (6)> Colborn, Paul P (OLC) <(b) (6)>
Cc: Hardy, Liam P. (OLC) <(b) (6)>
Subject: RE: OLC draft impeachment opinion

Please use this version.

From: (b) (6) (OLC) <(b) (6)>
Sent: Tuesday, December 17, 2019 9:36 AM

duplicate

duplicate

duplicate

duplicate

duplicate

duplicate