



U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530
(202) 514-3365

February 25, 2021

Austin Evers
American Oversight
foia@americanoversight.org

Re: OPR FOIA No. F20-00086

Dear Mr. Evers:

This is the first interim response from the Office of Professional Responsibility (OPR) to your July 24, 2020 Freedom of Information Act (FOIA) request seeking all complaints submitted to the Department of Justice Office of Professional Responsibility (OPR) containing allegations that concern the conduct of Attorney General William Barr. Please refer to OPR FOIA number **F20-00086** in any correspondence pertaining to this matter.

Please be advised that a search of OPR's system of records was conducted and records responsive to your request were located. In this first interim response, OPR is providing you with 306 pages of responsive records. These pages are appropriate for release with excisions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552 (b)(6). Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. These 306 pages have been Bates-numbered F20-00086 000001-000006, F20-00086 000008-000019, F20-00086 000021-000086, F20-00086 000279-000365, F20-00086 000367, F20-00086 000369-000395, F20-00086 000397, F20-00086 000399, F20-00086 000435-000440, F20-00086 000468-000544, and F20-00086 000546-000567.

Please be advised that OPR is withholding in full 192 pages pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552 (b)(6). These 192 pages have been Bates-numbered F20-00086 000087-000278.

Please also be advised that 69 pages of responsive material contain information originating with or of interest to other components or agencies. Therefore, in accordance with Department policy, OPR forwarded those records to those offices for consultation. These pages have been Bates-numbered F20-00086 000007, F20-00086 000020, F20-00086 000366, F20-00086 000368, F20-00086 000396, F20-00086 000398, F20-00086 000400-000434, F20-00086 000441-000467, and F20-00086 000545.*

* 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) (2006 & Supp. IV 2010). This response is

OPR will continue to process the remaining material responsive to your request and will provide you with interim responses until our response is complete. We anticipate that OPR's final response will be completed by April 22, 2021.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal with the Office of Information Policy.

Sincerely,

Carmen Smith Carter

Carmen Smith Carter

Counsel for the Freedom of Information and Privacy Acts

Enclosures

cc: Elliott Davis, Trial Attorney

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.



April 15, 2019

Corey R. Amundson
Director
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U.S. Department of Justice
Suite 3266
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Washington, DC 20530

Dear Director Amundson:

Democracy 21 is filing this complaint to request that the Office of Professional Responsibility (OPR) investigate whether Attorney General William Barr has violated Justice Department (DOJ) norms and standards of conduct by publicly testifying, without any substantiation, that FBI and Justice Department officials engaged in “spying” on the Trump campaign during the 2016 presidential election.

We urge you to take appropriate action if such improper conduct by Attorney General Barr is found.

There is precedent for OPR investigating an Attorney General. Following a complaint I filed with OPR in 1988 on behalf of Common Cause against Attorney General Edward Meese, OPR conducted an investigation and [found](#) that Meese had violated Justice Department ethical standards.

Attorney General Barr made his [charge](#) about “spying” during public testimony at a congressional hearing on April 10, 2019 before a Senate Appropriations sub-committee. According to [a report](#) in *The New York Times*:

Attorney General William P. Barr said on Wednesday that he would scrutinize the F.B.I.’s investigation of the Trump campaign’s ties to Russia, including whether “spying” conducted by American intelligence agencies on the campaign’s associates had been properly carried out.

“I think spying on a political campaign is a big deal,” Mr. Barr said during testimony before a Senate Appropriations subcommittee, adding that he wanted to look into both “the genesis and the conduct” of the F.B.I. inquiry. He cast his interest as a matter of protecting civil liberties from potential abuse by the government.

“I think spying did occur,” Mr. Barr said. “The question is whether it was adequately predicated. And I’m not suggesting that it wasn’t adequately predicated. But I need to explore that.”

The remarks of the Attorney General and his explosive allegation that “spying” occurred did not take place in a vacuum. Instead, they were made in the context of a heated political attack by President Trump and his allies on the lawfulness of the Special Counsel investigation into whether a hostile foreign power illegally interfered in the 2016 presidential election to benefit the Trump campaign, and whether it did so in coordination with members of the Trump campaign.

Attorney General Barr knew or certainly should have known that his unsubstantiated allegation would be publicly used by President Trump to validate his claim that illegal “spying” on his campaign had occurred and that the whole investigation by Special Counsel Robert Mueller was tainted as a result.

Attorney General Barr’s use of the alternative term “unauthorized surveillance” later in his testimony did not cure the problem he created. Barr still left standing the public impression that he believed improper conduct had occurred, while providing no evidence to back up this view. In doing so, he questioned the honesty and integrity of the FBI and of the Justice Department which he leads, without providing any basis for his allegations, and he provided fresh ammunition for President Trump to use to attack the legitimacy of the Mueller investigation.

Furthermore, the Attorney General has not retracted his unsubstantiated claim that “spying” had occurred, leaving President Trump free to use the Attorney General’s testimony as support for Trump’s false attacks on the Mueller investigation as illegal.

This is not a proper role for an Attorney General to play. Attorney General Barr has injected himself into a fierce public debate in a way can only be interpreted as siding with President Trump in the President’s repeated false [attacks](#) on the legality of the Mueller investigation.

It is improper conduct for the Attorney General of the United States to charge that “spying” has occurred by the FBI and Justice Department when he has no evidence to back up his claim. These statements by Attorney General Barr can only be understood as an attack on the integrity and credibility of Justice Department and FBI officials without providing a scintilla of evidence to back up his explosive allegation. OPR has a duty to hold the Attorney General accountable for his improper conduct.

The President and his political allies have long taken the position that the Special Counsel’s investigation into potential foreign interference in the 2016 election has been both unlawful and unnecessary. The President has repeatedly [alleged](#) that the Justice Department and FBI engaged in “spying” on his campaign, and he and his allies have argued that this “spying” has fatally tainted the legality of the Mueller investigation.

For example, on May 23, 2018, President Trump [charged](#) federal investigators “with using a spy inside his campaign, repeating unconfirmed claims,” and [tweeted](#) that “SPYGATE could be one of the biggest political scandals in history.”

The President's allegations of Departmental misconduct by "spying" has been repeatedly denied by the FBI and by the Justice Department. But these allegations of improper "spying" have been repetitively made by the President, and amplified by his congressional and media allies, as a kind of original sin to attack the appointment of Special Counsel Mueller and to attempt to discredit the Special Counsel's investigation and findings.

It was in this context that Attorney General Barr made his remarks that "spying did occur." The Attorney General had to have known the incendiary effect this statement would have, and that it would be used as "validation" by the President for his discredited claims that the Special Counsel investigation has been improper and illegitimate since its inception because of such "spying."

And, as *The Washington Post* [stated](#) about the Attorney General's remarks:

Barr's surprising comments echo unsubstantiated claims President Trump has made about the FBI, and though the attorney general later clarified that he was concerned about the legal basis for surveilling political figures, his words provided fresh ammunition to those who have branded the Russia investigation an illegitimate attempt to derail Trump's presidency.

Indeed, the Attorney General's comments have already had this effect.

President Trump has [repeated](#) his claim that the Special Counsel investigation was "started illegally" and that "[e]verything about it was crooked." The President [called](#) the investigation "an attempted coup." Further, [he said](#), "Everything about it was crooked — every single thing about it. There were dirty cops. These were bad people." In [another comment](#) made after the Attorney General's Senate testimony, President Trump specifically embraced the testimony as support for his attack on the Special Counsel investigation:

There was absolutely spying into my campaign. I'll go a step further: In my opinion, it was illegal spying, unprecedented spying, and something that should never be allowed to happen in our country again. And I think his answer was actually a very accurate one. And a lot of people saw that, and a lot of people understand -- many, many people understand the situation and want to be open to that situation. Hard to believe it could have happened, but it did. There was spying in my campaign.

Furthermore, Attorney General Barr has not retracted his unsubstantiated claim of "spying" nor stated that he should not have made this pejorative charge. Whatever clarifying comments Attorney General Barr made following his use of the word "spying," he has left standing his statement that "spying" occurred, enabling President Trump and his allies to cite the Attorney General as support for their continuing attacks on the Mueller investigation.

In light of this backdrop, we urge you to conclude that the Attorney General's remarks were improper and did not comply with the norms and standards of conduct that apply to Justice Department officials, and especially to the nation's chief law enforcement official.

This conclusion is warranted for several reasons.

First, in response to a question about whether he had “evidence that there was anything improper in those investigations,” Barr [responded](#), “I have no specific evidence that I would cite right now. I do have questions about it.”

Thus, Barr made remarks that he knew or should have known would be used by the President and his allies as a public finding by the Attorney General that improper “spying” on the Trump campaign had occurred. Barr also knew or should have known that his remarks would be used as a political weapon to attack the legitimacy of the Special Counsel investigation, the Justice Department and the FBI — when Barr himself said he had “no specific evidence” to support those remarks.

It is improper conduct for the Attorney General to make an inflammatory statement that “spying” on the Trump campaign occurred, while admitting that he has “no specific evidence” that there was anything improper about the FBI investigation that led to the appointment of the Special Counsel.

In the heightened partisan context of President Trump’s repeated attacks on the Special Counsel, the Attorney General allowed his office to be used to validate a discredited line of attack on the legitimacy of the Special Counsel investigation. Attorney General Barr also allowed his office to be used in a partisan battle attacking the very Department he is leading.

The Attorney General knew, or certainly should have known, that by using the loaded term “spying,” his remarks would feed conspiracy theorists and critics of the Special Counsel — including the President — who have been seeking to undermine and discredit the Mueller investigation since its beginning.

This problem is only exacerbated by the specific timing of the Attorney General’s remarks — just days before his release to Congress and the public of his redacted version of the Special Counsel’s report. To the extent the Mueller report contains findings critical of the President or his campaign, which it surely will, the President and his allies will renew and intensify their attacks on the legitimacy of the Special Counsel investigation, as a way to distract public attention from and undermine any critical findings made by the Special Counsel.

The Attorney General has now wittingly contributed to this strategy by providing the imprimatur of his office to validate a key tenet of the President’s sustained attack on the Special Counsel investigation — that “spying” on the Trump campaign occurred. Attorney General Barr did this right at the moment when this validation would be most useful to the President.

Second, the Attorney General’s remarks were particularly inappropriate because they were not only inflammatory, but also unnecessary.

The gravamen of the Attorney General’s position is that “spying” occurred and that he wants to investigate “[t]he question [of] whether it was adequately predicated.” [According to The](#)

Washington Post, the Attorney General “told House lawmakers that he would review how the FBI launched a counterintelligence investigation in its effort to determine whether Trump’s associates were conspiring with Russians to interfere in the election.” He said he was assembling a “team” to conduct this investigation.

Yet, the Department’s Inspector General is already conducting an investigation into the origins of the FBI counterintelligence inquiry. [According to](#) *The New York Times*, “[T]he inspector general has previously confirmed that he was looking into the early stages of the Russia inquiry, including wiretap applications, informants and whether any political bias against Mr. Trump influenced investigative decisions.” The Attorney General, on the day before his Senate testimony, [told](#) a House Appropriations subcommittee:

The office of the inspector general has a pending investigation of the FISA process in the Russia investigation. I expect that will be complete in probably May or June, I am told. So hopefully we’ll have some answers from Inspector General Horowitz on the issue of the FISA warrants.

Thus, the Department has already been conducting — and is nearing the completion of — the same investigation that the Attorney General announced he is separately planning to undertake.

Instead of announcing that he was undertaking his own separate investigation into the legality of the FBI’s “spying” on the Trump campaign, the responsible course of action would have been for the Attorney General simply to state that there is a pending Inspector General investigation of the FISA process that is almost complete, and that he will wait for “some answers” from that investigation.

Had Attorney General Barr done that and gone no further, he would have taken the position that the Department needed to review the origins of the FBI investigation while avoiding his reckless remark that “spying” had occurred — a statement that Barr had to know would be seized upon by the President and his allies to attack and to discredit the Special Counsel investigation just days before the release of the redacted final report.

Finally, the Attorney General wrongly created the public impression that there may have been an extensive practice of domestic spying on the Trump campaign. As discussed above, the Inspector General is already reviewing the origins of the FBI investigation and the Special Counsel appointment.

Given that, and in advance of the results of the Inspector General investigation, there was no good reason for the Attorney General to announce that “spying” on the Trump campaign had occurred, thereby providing partisan political ammunition to the President, and no good reason to announce the creation of his own additional investigation. By announcing his own investigation, the Attorney General has created the public impression that improper behavior by Departmental officials may have led to extensive domestic “spying.” Yet having made the claim of impropriety, Barr also said he has “no specific evidence” to support his position.

This is an improper way for the Attorney General to exercise the authority of his office.

If the Attorney General is aware of possible Departmental misconduct, he certainly has the responsibility to ensure that the matter is investigated appropriately, either by the Inspector General or other Department officials. But the Attorney General should not announce to a congressional committee that he is creating a team to undertake an internal investigation of a matter as serious as domestic political “spying” by the FBI, in the absence of any “specific evidence” that impropriety occurred.

To proceed as the Attorney General did serves to inflame public debate and feed conspiracy theories in a fashion that undermines the Special Counsel investigation, the Justice Department, the FBI and, more generally, the rule of law. It is inappropriate and improper conduct for the Nation’s chief law enforcement officer.

Democracy 21 urges OPR to investigate our complaint and to find that the Attorney General has engaged in improper conduct that fails to comply with the norms and standards of conduct applicable to all Justice Department officials, and most importantly to the Attorney General himself.

We urge you to uphold the Department’s commitment to the highest standards of conduct for all officials of the Justice Department by finding it was improper for the Attorney General to publicly charge, without any evidence to support the charge, that the FBI and Justice Department had engaged in “spying” on the Trump campaign, and by then failing to retract this unsubstantiated and inflammatory charge.

Sincerely,



Fred Wertheimer
President, Democracy 21

cc Cynthia K. Shaw
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required when lawyers change sides.¹ The Rules of Professional Conduct consider this to be a patent conflict-of-interest that *cannot* be waived. This is why Bar Association ethics attorneys with whom I have discussed side-switching matters have indicated, “That is a conflict-of-interest.”

Side-switching violates the core of the attorney-client relationship: the duties of confidentiality and loyalty, to avoid conflicts-of-interest. The courts do not require that it be proved the lawyer actually acquired confidential information in the former representation,² or that he actually disclosed confidential information in the subsequent representation.³ The mere possibility these duties may be breached is prohibited.⁴ Where there is a substantial relationship between the subject matter of the former representation and that of a subsequent representation, the latter representation will be prohibited.⁵ In this case it is the *exact same matter*. For a lawyer to represent one client today, and the client's adversary tomorrow in the same matter, creates an unsavory appearance of conflict of interest that is difficult to dispel in the eyes of the public — or for that matter the bench and bar.⁶

In response to my letter to you dated February 15, 2019,⁷ I received an email dated March 8, 2019.⁸ The email indicates there has been no recusal, nor will there be, and nor will this matter be addressed. I was surprised the Office of Professional Responsibility (OPR) summarily dismissed this issue as not warranting an investigation. This response is tantamount to a statement by the Department of Justice (DOJ) that *side-switching* by the highest law enforcement officer in the nation is OK. Surely this cannot be what you intend.

AG Barr states in his written comments to the Senate that it's likely his representation of Caterpillar Inc. will present conflicts-of-interest and he knows certain conflicts cannot be waived.⁹

¹ Trone v. Smith, 621 F.2d 994, 1001 (9th Cir. 1980).

² The former client need show no more than that the matters embraced within the pending suit wherein his former attorney appears on behalf of his adversary are substantially related to the matters or cause of action wherein the attorney previously represented him, the former client. The Court will assume that during the course of the former representation confidences were disclosed to the attorney bearing on the subject matter of the representation. TC Theatre Corp. v. Warner Bros. Pictures, 113 F. Supp. 265, 268 (S.D.N.Y. 1953). A complainant need only show access confidential information and the inference that the lawyer received these confidences will follow. Brown v. District of Columbia Board of Zoning Adjustment, 486 A.2d 37, 43-44 (D.C. 1984). It matters not whether confidences were in fact imparted to the lawyer by the client. Trone v. Smith, 621 F.2d 994, 1000 (9th Cir. 1980).

³ It is not appropriate for the court to inquire into whether actual confidences were disclosed. Analytica, Inc. v. NPD Research, Inc., 708 F.2d 1263, 1267 (7th Cir. 1983). The test does not require the former client to show that actual confidences were disclosed. Disqualification does not depend upon proof of the abuse of confidential information. Trone v. Smith, 621 F.2d 994, 999-1001 (9th Cir. 1980). We agree that when an attorney engages in a conflict of interest on the same matter, he or she is in a position to act on the confidential information learned from the relationship with the first client, whether or not that information is actually disclosed or acted upon in advising the new client. Damron v. Herzog, 67 F.3d 211, 339 (9th Cir. 1995).

⁴ Trone v. Smith, 621 F.2d 994, 999 (9th Cir. 1980). It is the possibility of the breach of confidence, not the fact of the breach, that triggers disqualification.

⁵ Brown v. District of Columbia Board of Zoning Adjustment, 486 A.2d 37, 42 (D.C. 1984).

⁶ Analytica, Inc. v. NPD Research, Inc., 708 F.2d 1263, 1269 (7th Cir. 1983).

⁷ Copy attached.

⁸ Copy attached.

⁹ <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55)

It would appear he was referring to his *side-switching* as few conflicts cannot be waived, and *side-switching* is one of them. Shouldn't this issue have been in AG Barr's Ethics Agreement? Wouldn't it be natural for the OPR to follow-up on his written comments to the Senate that are inconsistent with his Ethics Agreement; and the JMD's opinion given, on that agreement?

The reasoning stated in the email response¹⁰ I received is that a DOJ employee can only have a conflict-of-interest in the context of a personal relationship that constitutes a "friendship" or "familial relationship". Therefore, without evidence of a friendship or familial relationship my allegations are without foundation and do not warrant further inquiry. This reasoning would mean that no other types of relationships can create a conflict-of-interest. This reasoning is contrary to the Rules of Professional Conduct; federal case law, statutes and regulations; and the DOJ's internal information published as guidance for its attorneys regarding conflicts.

I hereby submit this *new* complaint calling on the OPR to promptly conduct an investigation into whether AG Barr is in violation of the Rules of Professional Conduct, and federal case law, statutes and regulations for not "*permanently*" recusing himself from the investigation of Caterpillar Inc. and putting screening measures in place.

I *respectfully* submit the following reasons why this matter should be investigated, and urgently. I shall start with the Rules of Professional Conduct because these rules state clearly that all ethics rules, case law, statutes and regulations apply to government attorneys.¹¹ This includes AG Barr.

Rules of Professional Conduct

The District of Columbia (D.C.) Rules of Professional Conduct related to Successive Government and Private Employment details specific ethical prohibitions applicable to lawyers who leave public service and enter private practice. There is not a specific rule regarding lawyers entering government service.¹² However, although there is no parallel D.C. rule addressing lawyer movement from private practice to government employment, the D.C. Rules of Professional Conduct address this subject more generally and provide guidance on the ethical constraints that apply when a lawyer leaves private practice to enter public service.¹³ In other words, the ethical obligations and constraints that apply to a lawyer moving from government service to private practice, also apply to a lawyer moving from private practice to government service. For example, a lawyer who is investigating a case is prohibited from leaving the government to then defend that same case. And likewise, a lawyer who is defending a case is prohibited from then entering the

¹⁰ The email discussed the issue of financial conflict-of-interest. I have not raised that issue so it is not relevant to this discussion. The email also raised the issue of AG Barr's Ethics Agreement which outlines his compliance with general executive branch ethics rules including a one-year recusal. However, this ignores the permanent recusal required by the Rules of Professional Conduct, case law, and 28 CFR § 45.2, which were not addressed at all in the Ethics Agreement. A one-year recusal does NOT compliant with all the relevant rules.

¹¹ District of Columbia Rules of Professional Conduct: Rule 1.11—Successive Government and Private Employment, Comment [2].

¹² There is a specific rule for this matter in ABA Model Rules of Professional Conduct; Rule 1.11(d).

¹³ District of Columbia Ethics Opinion 308 – Ethical Constraints on Lawyers Who Leave Private Employment for Government Service. Additional regulations include the DOJ specific regulation 28 CFR § 45.2.

government to investigate that same case. Both examples involve the same lawyer, arguing both sides, of the same exact matter, for opposing clients.

A lawyer representing a government agency, whether employed or specially retained by the government, is subject to the Rules of Professional Conduct, including the prohibition against representing adverse interests stated in Rule 1.7 and the protections afforded former clients in Rule 1.9. In addition, such a lawyer is subject to Rule 1.11 and to statutes and government regulations concerning conflicts-of-interest.¹⁴ Thus, AG Barr must comply with Rule 1.7, Rule 1.9, and Rule 1.11. These rules provide guidance on the ethical constraints that apply when a lawyer *leaves private practice to enter public service*. These rules disqualify AG Barr from participating in any matter related to the investigation of Caterpillar Inc. He must permanently recuse himself. The DOJ must implement screening procedures to ensure such recusal is in-fact effective.

Rule 1.7: This rule states that, “A lawyer shall not advance two or more adverse positions in the same matter.”¹⁵ This rule sets out the limited circumstances in which representation of conflicting interests is “*absolutely prohibited*”, and “*even with the informed consent of all involved clients*”.¹⁶ The institutional interests in preserving confidence in the adversary process and in the administration of justice preclude permitting a lawyer to represent adverse positions in the same matter.¹⁷ The same lawyer should not espouse adverse positions in the same matter during the course of any type of representation.¹⁸ This is an *absolute conflict-of-interest* that *cannot be waived* by anyone.¹⁹

AG Barr formerly defended Caterpillar Inc. in an ongoing DOJ investigation. Subsequently, he now is sworn to investigate Caterpillar Inc. in the *exact* same matter. This is *side-switching*. Any participation or involvement by AG Barr in the Caterpillar investigation is the advancement of an adverse position in the same matter. AG Barr’s participation or involvement in the Caterpillar investigation is prohibited. He must permanently recuse himself. The DOJ must implement screening procedures to ensure such recusal is in-fact effective.

Before discussing Rule 1.9 and Rule 1.11 it is important to re-emphasize that *side-switching* is an absolute conflict-of-interest that CANNOT be waived, even with the consent of all parties involved. So, although Rule 1.9 and Rule 1.11 provide for the waiver of certain conflicts by obtaining client consent, such waiver applies to less direct, less egregious conflicts. It is axiomatic that a reasonable person would never consent to their lawyer *switching-sides* to represent the other party against them in the same matter, particularly a DOJ investigation. To even allow

¹⁴ District of Columbia Rules of Professional Conduct: Rule 1.11—Successive Government and Private Employment, Comment [2]. See also, ABA Model Rules of Professional Conduct; Rule 1.11(d).

¹⁵ District of Columbia Rules of Professional Conduct: Rule 1.7(a)—Conflict of Interest: General.

¹⁶ District of Columbia Rules of Professional Conduct: Rule 1.7—Conflict of Interest: General, Comment [1]. Rule 1.7(b) references less egregious situations which may be waived.

¹⁷ District of Columbia Rules of Professional Conduct: Rule 1.7—Conflict of Interest: General, Comment [2].

¹⁸ District of Columbia Rules of Professional Conduct: Rule 1.7—Conflict of Interest: General, Comment [3].

¹⁹ The D.C. Bar made specific changes to the ABA Model Rule 1.7 for the principal purpose of stating more clearly and unequivocally that there are circumstances in which representation is absolutely forbidden. This is a codification of the absolute prohibition that existed in case law. The D.C. Rule 1.7(a) mandates an absolute prohibition of multiple representation when the lawyer represents clients with *adverse positions* in the *same matter*. Client consent *cannot* cure such a conflict. Griva v. Davison, 637 A.2d 830, 843 (D.C. 1994).

clients to do so, no matter how unthinkable, would destroy the legal adversary system. So, although waiver by consent may be allowed in Rule 1.9 and Rule 1.11 for lesser conflicts, it is forbidden in a *side-switching* case such as this pursuant to Rule 1.7(a).

Rule 1.9: This rule states that “A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of the former client unless the former client gives informed consent.” However, when a lawyer has been directly involved in a specific matter, subsequent representation of other clients with materially adverse interests is clearly prohibited.²⁰ The underlying question is whether the lawyer was so involved in the matter that the subsequent representation can be justly regarded as a *changing-of-sides* in the matter in question.²¹ “Where any substantial relationship can be shown between the subject matter of a former representation and that of a subsequent adverse representation, the latter representation will be prohibited.”²² Courts considering *side-switching* from a former client to a subsequent client have consistently followed this formula,²³ and prohibited the subsequent representation. There is no waiver in this situation.²⁴

This is a prophylactic rule to prevent even the *potential* that a former client’s confidences and secrets *may* be used against him.²⁵ The rule is important for the maintenance of the public confidence in the integrity of the bar.²⁶ Former client conflicts most often arise where the conflicted attorney is litigating against his former client which is invariably adverse.²⁷ The same is true for investigations against former clients. AG Barr formerly defended Caterpillar Inc. in an ongoing investigation. Subsequently, he now is sworn to investigate Caterpillar Inc. in the *exact* same matter. AG Barr’s subsequent representation is prohibited. He must permanently recuse himself.²⁸ The DOJ must implement screening procedures to ensure such recusal is in-fact effective.

²⁰ District of Columbia Rules of Professional Conduct: Rule 1.9—Conflict of Interest: Former Client, Comment [2]. District of Columbia Ethics Opinion 308 – Ethical Constraints on Lawyers Who Leave Private Employment for Government Service.

²¹ District of Columbia Rules of Professional Conduct: Rule 1.9—Conflict of Interest: Former Client, Comment [2]; District of Columbia Ethics Opinion 308—Ethical Constraints on Lawyers Who Leave Private Employment for Government Service, *citing Brown v. District of Columbia Board of Zoning Adjustment*, 486 A.2d 37, 42 (D.C. 1984).

²² See *Brown v. District of Columbia Board of Zoning Adjustment*, 486 A.2d 37, 42 (D.C. 1984).

²³ See *Brown v. District of Columbia Board of Zoning Adjustment*, 486 A.2d 37, 43 (D.C. 1984), and its progeny.

²⁴ District of Columbia Rules of Professional Conduct: Rule 1.9—Conflict of Interest: Former Client. District of Columbia Ethics Opinion 308 – Ethical Constraints on Lawyers Who Leave Private Employment for Government Service; requires if a matter is the same as work done for the former client, a lawyer may not proceed without written consent from both the current and the former client. Even so, the courts have not permitted such a direct conflict. Rule 1.7 is an absolute prohibition on conflicting representation in the same matter, even with the consent of both the current and former client.

²⁵ See discussion above on pages 1 and 2.

²⁶ United States Attorney’s Bulletin, September 2009, p.9.

²⁷ United States Attorney’s Bulletin, September 2009, p.9.

²⁸ Although Rule 1.9 mentions the possibility of client consent, the Comment to Rule 1.9 makes clear that subsequent adverse representation is prohibited where there is a “substantial relationship” between the subject matter of the former and subsequent adverse relationship. In this case there is a “direct relationship” as the subject matter of the former and subsequent representations is exactly the same. This Comment is consistent with Rule 1.7 which divides conflicts into “direct” conflicts which CANNOT be waived, and lesser indirect

Rule 1.11: The DOJ has referred to this rule as the *side-switching* rule.²⁹ This rule states that “A lawyer shall not accept other employment in connection with a matter which is the same as, or substantially related to, a matter in which the lawyer participated personally and substantially as a public officer or employee.”³⁰ Or in this case, while in private practice.³¹ This rule flatly forbids a lawyer to accept other employment (much less direct adverse representation) in a matter in which the lawyer participated personally and substantially.³² There is no provision for waiver of the lawyer’s disqualification.³³ The Rule 1.11 absolute disqualification of a lawyer from matters in which the lawyer participated personally and substantially carries forward a policy of avoiding both *actual impropriety* and the *appearance of impropriety* that is expressed in the federal conflict-of-interest statutes and in the Code of Professional Responsibility.³⁴ Screening procedures are required.³⁵

This rule does not state that the subsequent employment must even be adverse. It does not.³⁶ This rule is written broadly to disqualify an attorney from participating in the subsequent matter even when that matter is not adverse to their former client.³⁷ All aspects of this rule are interpreted broadly by the courts.³⁸ *Side-switching* is simply forbidden. *Side-switching* is inherently adverse, and particularly when it occurs in the *same matter*. There is an inherent, self-evident conflict-of-interest.

AG Barr participated personally and substantially as the attorney for Caterpillar Inc. in the matter of the ongoing investigation.³⁹ He formerly defended Caterpillar Inc. in the ongoing

conflicts which can be waived. See, District of Columbia Rules of Professional Conduct: Rule 1.7—Conflict of Interest: General, Comment [1].

²⁹ United States Attorney’s Bulletin, September 2009, p.4.

³⁰ District of Columbia Rules of Professional Conduct: Rule 1.11(a)—Successive Government and Private Employment.

³¹ See, District of Columbia Ethics Opinion 308 – Ethical Constraints on Lawyers Who Leave Private Employment for Government Service: Although there is no parallel rule addressing lawyer movement from private practice to government employment, the D.C. Rules of Professional Conduct address this subject more generally and provide guidance on the ethical constraints that apply when a lawyer *leaves private practice to enter public service*.

³² District of Columbia Rules of Professional Conduct: Rule 1.11(a)—Successive Government and Private Employment, Comment [3].

³³ District of Columbia Rules of Professional Conduct: Rule 1.11(a)—Successive Government and Private Employment, Comment [3].

³⁴ District of Columbia Rules of Professional Conduct: Rule 1.11(a)—Successive Government and Private Employment, Comment [5].

³⁵ District of Columbia Rules of Professional Conduct: Rule 1.11(a)—Successive Government and Private Employment, Comment [5].

³⁶ United States Attorney’s Bulletin, September 2009, p.4.

³⁷ United States Attorney’s Bulletin, September 2009, p.5.

³⁸ United States Attorney’s Bulletin, September 2009, see generally the discussion on p.4,5 & 6 where the key terms in this rule are interpreted in a very broad manner.

³⁹ In 2018 alone, AG Barr was paid more than \$1.2 million by Kirkland & Ellis for legal service to Caterpillar Inc. He stated in his oral testimony that he only had one client and no other clients are listed as sources of income on his financial disclosure. Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e), page 4-5 & 7. [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/FE446AE51F24A2D685258381002E483C/\\$FILE/Barr,%20William%20P.%20%20final278%20.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/FE446AE51F24A2D685258381002E483C/$FILE/Barr,%20William%20P.%20%20final278%20.pdf). AG Barr indicated in his oral testimony before the Senate that he only had one client. Caterpillar Inc. is the only client listed as a source of income from providing

investigation. Subsequently, he now is sworn to investigate Caterpillar Inc. in the *exact* same matter. Courts have found that an attorney is involved in a matter even where he is only supervising other lawyers who are in charge of an investigation and only attends high-level meetings about the case.⁴⁰ AG Barr cannot have any supervisory authority over the investigation of Caterpillar Inc. His subsequent participation or involvement in any capacity⁴¹ is prohibited. He must permanently recuse himself. The DOJ must implement screening procedures to ensure such recusal is in-fact effective.

DOJ Specific Regulation

“A lawyer representing a government agency, whether employed or specially retained by the government, is subject to...statutes and government regulations concerning conflict-of-interest.”⁴² Thus, AG Barr is subject to 28 C.F.R. § 45.2.

28 C.F.R. § 45.2, applies to all employees of the Department of Justice and provides:

45.2(a) Unless authorized under paragraph (b) of this section, no employee *shall* participate in a criminal investigation or prosecution if he has a personal or political relationship with:

- (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or
- (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

45.2(b) An employee assigned to or otherwise participating in a criminal investigation or prosecution who believes that his participation may be prohibited by paragraph (a) of this section *shall* report the matter and all attendant facts and circumstances to his supervisor at the level of section chief or the equivalent or higher. If the supervisor determines that a personal or political relationship exists between the employee and a person or organization described in paragraph (a) of this section, he *shall* relieve the employee from participation unless he determines further, *in writing*, after full consideration of all the facts and

legal service; see page 7.

⁴⁰ United States Attorney's Bulletin, September 2009, p.6. “Although the term “substantially” might suggest that an attorney's participation in a prior matter must be extensive to justify disqualification, the case law demonstrates otherwise. The “substantial” participation requirement means participation in the substance of the prior matter and does not require some particular quantum of effort expended. The rule requires some involvement but does not require that the attorney was directly responsible for the prior matter in question. See, e.g., *United States v. Smith*, 995 F.2d 662, 675-76 (7th Cir. 1993) (court found that an AUSA's involvement was “personal” and “substantial” under Illinois Rule of Professional Conduct 1.11(a) (similar to the Model Rule 1.11) when he supervised another AUSA in charge of investigating a related case, attended high-level meetings about the case, and signed an immunity agreement for one of the government's witnesses); *Sec. Investor Prot. Corp. v. Vigman*, 587 F. Supp. 1358, 1367 (C.D. Cal. 1984) (district court found that, when the SEC Regional Administrator signed a complaint and a trial brief, he assumed the “personal and substantial responsibility of ensuring that there existed good grounds to support the SEC's case”).” The same is true with regard to the subsequent representation.

⁴¹ *TC Theatre Corp. v. Warner Bros. Pictures*, 113 F. Supp. 265, 271 (S.D.N.Y. 1953). When the lawyer's subsequent representation deals with matters as to which his former client reposed confidence in him, he is disqualified from acting as counsel for the plaintiff in the subsequent representation, “in any capacity”.

⁴² District of Columbia Rules of Professional Conduct: Rule 1.11—Successive Government and Private Employment, Comment [2].

circumstances, that: (emphasis added)

(1) The relationship will not have the effect of rendering the employee's service less than full impartial and professional; and

(2) The employee's participation would not create an appearance of a conflict of interest "likely" to affect the public perception of the integrity of the investigation or prosecution. (emphasis added)

45.2(c).... For the purposes of this section:

(2) *Personal relationship means a close and substantial connection of the type normally viewed as likely to induce partiality.* (emphasis added) An employee is presumed to have a personal relationship with his father, mother, brother, sister, child and spouse. Whether relationships (including friendships) of an employee to other persons or organizations are "personal" must be judged on an individual basis with due regard given to the subjective opinion of the employee. (emphasis added)

Section 45.2(c)(2) defines a "Personal relationship" to mean **the existence of "a close and substantial connection of the type viewed as likely to induce partiality."** The second sentence then creates a presumption of partiality with regard to familial relationships. It presumes that with regard to one's relationship with their family there exists "*a close and substantial connection of the type viewed as likely to induce partiality.*" The third sentence states that other relationships of an employee, other than those familial relationships specifically stated, must be judged on an individual basis to determine if the relationship constitutes "*a close and substantial connection of the type viewed as likely to induce partiality.*" There is no language that limits the definition of "Personal relationship" to only those relationships that are familial or personal friendships. The regulation specifically contemplates employee relationships with "organizations" which cannot possibly be familial or personal friendships. "Personal relationship" as defined in the regulation includes all relationships of an employee with "people or organizations" where there exists "*a close and substantial connection of the type viewed as likely to induce partiality.*" The determinative factor is the presence of "*a close and substantial connection of the type viewed as likely to induce partiality.*"

By law, a lawyer's relationship with his client is one where there exists "*a close and substantial connection of the type viewed as likely to induce partiality.*" The Rules of Professional Conduct require a relationship whereby the attorney is "*in-fact partial*" to his client,⁴³ not just "*likely to*" be partial. A lawyer's partiality to his client is required by law and is the essence of the relationship. It is a "*fiduciary*" relationship. The evidence provided in my previous letter⁴⁴ and publicly available records establish that AG Barr had an attorney-client relationship with Caterpillar Inc. This relationship is legally defined and there is no further evidence necessary to establish that this relationship constitutes "*a close and substantial connection of the type viewed as likely to induce partiality.*" In the federal case law regarding *side-switching*⁴⁵ the courts do not request or require evidence that an attorney-client relationship constitutes "*a close and substantial*

⁴³ For example, District of Columbia Rule 1.3 (duty of diligent and zealous representation), Rule 1.6 (duty of confidentiality), 1.7 & 1.8 (duty to avoid conflicts-of-interest), Rule 1.9 (duty to avoid conflicts-of-interest re former clients), etc.

⁴⁴ Copy attached.

⁴⁵ Note that 28 CFR §45.2 applies to an entire realm of conflicts that are lesser, and more indirect, than the self-evident conflict-of-interest inherent in *side-switching*.

connection of the type viewed as likely to induce partiality” because this is simply self-evident. As such, 28 CFR §45.2(a) precludes AG Barr from participating in the investigation of Caterpillar Inc. because he had an attorney-client relationship with the company which by law required a level of partiality that far exceeded the *“close and substantial connection of the type viewed as likely to induce partiality”* that is required by the regulation.

AG Barr’s written response to Senate questions⁴⁶ demonstrates that he believes he “may” have a conflict in this matter and that it “may” be one that cannot be waived. As such, he has a legal responsibility⁴⁷ to report the matter and all attendant facts and circumstances. AG Barr must be relieved from participation.⁴⁸ A waiver from the DOJ is not possible here. The Rules of Professional Conduct and federal case law are resolute that *side-switching* not only “*create(s) an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation*”,⁴⁹ but that it is a forbidden conflict-of-interest that CANNOT be waived. Therefore, the waiver provision provided in 28 CFR §45.2(b) cannot apply. AG Barr must permanently recuse himself. The DOJ must implement screening procedures to ensure such recusal is in-fact effective.

Policy

The DOJ is putting its own investigation at-risk.

It seems the DOJ has everything to lose, and nothing to gain, by not requiring a simple recusal of the Attorney General from an investigation he was defending 4 months ago for which he was paid \$1-2 million over less than 22 months. This investigation has been ongoing since January 2015, involves several federal agencies, and resulted in the execution of search warrants that lead to AG Barr’s representation of Caterpillar.⁵⁰

What value or benefit does the DOJ gain from AG Barr’s involvement? Any additional value he could bring would inherently include his past representation of and the knowledge he gained defending Caterpillar, which is exactly the type of contribution that is prohibited by the Rules of Professional Conduct, and federal case law, statutes and regulations. Quite honestly, it is simply unfair to put Mr. Barr or any attorney in this position. **His actual or even perceived possible participation or involvement puts the government’s investigation at risk of Caterpillar claiming it is “tainted”.** It contradicts federal case law, statutes, and regulations. It contradicts the Rules of Professional Conduct. It contradicts Justice Department norms. It condones and permits a *non-waivable conflict-of-interest*; and creates the *appearance of either unfairness or favoritism toward Caterpillar Inc.*

I believe it is fair to say that if the DOJ requires recusal and implements effective screening procedures in this case, there is no harm to anyone, and a positive outcome for everyone, including

⁴⁶ <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55)

⁴⁷ 28 CFR §45.2(b).

⁴⁸ 28 CFR §45.2(b).

⁴⁹ 28 CFR §45.2(b).

⁵⁰ See <https://www.caterpillar.com/en/news/corporate-press-releases/h/new-caterpillar-ceo-asks-former-us-attorney-general-to-assess-and-help-address-ongoing-government-investigation.html>

AG Barr and Caterpillar Inc.

Recusal with effective screening procedures

- Safeguards AG Barr's former client, thereby protecting him.
- Eliminates the appearance of a conflict-of-interest, bias, unfairness, etc.
- Complies with the Rules of Professional Conduct, and federal law & regulation.
- Eliminates a patent conflict-of-interest.
- Is consistent with AG Barr's written comments to the Senate.

Non-recusal

- Puts everyone involved at-risk.
- Could taint a 4-year multi-agency investigation.
- Condone a patent conflict-of-interest, setting a terrible precedent.
- Creates the appearance of a conflict-of-interest, which is prohibited by all relevant authority.

Conclusion

The District of Columbia has stated that, "Lawyers who leave private practice to enter government service must be vigilant to protect the interests of former clients while representing their new clients with diligence and zeal. A government lawyer owes continuing obligations to her former clients to protect client confidences and secrets both from disclosure to others and from use by the lawyer to the disadvantage of the former clients. A government lawyer may not (shall not in the case of *side-switching*) undertake work that is the same as or substantially related to work done for a former client.... While disqualification of a government lawyer from a matter due to work done for a prior client is not imputed to other lawyers in the government agency or entity, screening measures should be considered in appropriate cases (required in this case)."⁵¹

The Attorney General is the head of the Department of Justice.⁵² Congress has "vested" in the Attorney General virtually "[a]ll functions of other officers of the Department,"⁵³ and has empowered the Attorney General to authorize other Department officials to perform the functions of the Attorney General.⁵⁴ The Attorney General is responsible for all functions and actions of the DOJ. The Attorney General has supervisory authority for the entire DOJ. Courts have found that an attorney is involved in a matter even where he is only supervising other lawyers who are in charge of an investigation and only attends high-level meetings about the case.⁵⁵ In this case in

⁵¹ See, District of Columbia Ethics Opinion 308 – Ethical Constraints on Lawyers Who Leave Private Employment for Government Service.

⁵² 28 U.S.C. § 503.

⁵³ 28 U.S.C. § 509.

⁵⁴ 28 U.S.C. § 510.

⁵⁵ United States Attorney's Bulletin, September 2009, p.6. "Although the term "substantially" might suggest that an attorney's participation in a prior matter must be extensive to justify disqualification, the case law demonstrates otherwise. The "substantial" participation requirement means participation in the substance of the prior matter and does not require some particular quantum of effort expended. The rule requires some involvement but does not require that the attorney was directly responsible for the prior matter in question. See, e.g., United States v. Smith, 995 F.2d 662, 675-76 (7th Cir. 1993) (court found that an AUSA's

which the lawyer involved is the Attorney General of the United States, the inherent ethical issues cannot be resolved by merely moving the investigation of his former client to a peer within the DOJ for which he has no responsibility. All of the DOJ and its employees are encompassed within the responsibility, purview and authority of the Attorney General. There are four options.

1. AG Barr resigns his position as Attorney General of the United States; or
2. AG Barr permanently recuses himself from participation in the Caterpillar investigation and the Deputy AG appoints a Special Counsel;⁵⁶ or
3. AG Barr permanently recuses himself from participation in the Caterpillar investigation and the DOJ immediately implements effective screening measures; or
4. AG Barr is in violation of the Rules of Professional Responsibility and federal case law, statutes and regulations, which is sanctioned by the Justice Department.

The apparent remedy is the immediate permanent recusal and the immediate implementation of effective screening measures such as those in the Rules of Professional Conduct.⁵⁷ While disclosures and screening measures are not required per-se, as a practical matter they are to comply with the Rules.⁵⁸ The D.C. Bar Association suggests consideration and

involvement was "personal" and "substantial" under Illinois Rule of Professional Conduct 1.11(a) (similar to the Model Rule 1.11) when he supervised another AUSA in charge of investigating a related case, attended high-level meetings about the case, and signed an immunity agreement for one of the government's witnesses); *Sec. Investor Prot. Corp. v. Vigman*, 587 F. Supp. 1358, 1367 (C.D. Cal. 1984) (district court found that, when the SEC Regional Administrator signed a complaint and a trial brief, he assumed the "personal and substantial responsibility of ensuring that there existed good grounds to support the SEC's case"). The same is true with regard to the subsequent representation. *TC Theatre Corp. v. Warner Bros. Pictures*, 113 F. Supp. 265, 271 (S.D.N.Y. 1953). When the lawyer's subsequent representation deals with matters as to which his former client reposed confidence in him, he is disqualified from acting as counsel for the plaintiff in the subsequent representation, "in any capacity".

⁵⁶ See 28 CFR §600.1. A Special Counsel is appropriate because: there is already an investigation underway; the AG has a conflict-of-interest; and it is always in the public interest (and legally required) for the Justice Department to avoid even the appearance of impropriety to maintain the public trust. Since effective screening measures are required here for an effective recusal of the AG and such measures were not deployed promptly, the disqualification could be imputed beyond the AG to other high-level DOJ officials. ("The screen must be erected promptly. See *Analytica, Inc. v. NPD Research Inc.*, 708 F.2d 1263, 1267-68 (7th Cir. 1983) ("[I]t was not enough that the lawyer 'did not disclose to any person associated with the firm any information . . . on any matter relevant to this litigation,' for 'no specific institutional mechanisms were in place to insure that information was not shared, even if inadvertently,' until the disqualification motion was filed—months after the lawyer had joined the firm."); see also *United States v. Goot*, 894 F.2d 231, 235 (7th Cir. 1990) ("The predominant theme running through this court's prior decisions is that disqualification is required when screening devices were not employed or were not timely employed.") (emphasis added); *Atasi Corp. v. Seagate Tech.*, 847 F.2d 826, 831 (Fed. Cir. 1988) (presumption of shared confidences was not clearly overcome because oral screening measures were not timely employed or adequately communicated); *Cobb Publ'g, Inc. v. Hearst Corp.*, 907 F. Supp. 1038 (E.D. Mich. 1995) (delay of 11 or 18 days in setting up ethical wall is too long).")

⁵⁷ See, District of Columbia Rules of Professional Conduct: Rule 1.11(a)—Successive Government and Private Employment, and Comments. If a Special Counsel is not going to be appointed, the OPR should recommend an investigation by the Office of Inspector General to determine who in addition to the AG may be required to be screened from the investigation.

⁵⁸ See, District of Columbia Ethics Opinion 308 – Ethical Constraints on Lawyers Who Leave Private Employment for Government Service: Due to the draconian effects of imputed disqualification on the ability of the government to obtain legal services, however, the principles of imputed disqualification do not apply to disqualify government lawyers who practice in a government agency with a lawyer who is disqualified

implementation of these procedures to insulate the disqualified lawyer from the ongoing matter, to provide important assurances to the lawyer's former client that he is meeting his ethical obligations which protects the lawyer, and to signal a recognition by the DOJ of the importance of these ethical obligations, thereby avoiding the appearance of anything less than full compliance with the law in-fact and in-appearance, beyond question.⁵⁹ The public is generally more concerned about government improprieties than private ones and, thus, the appearance problem is more severe because the public is likely to be more critical of the potential misuse of information.⁶⁰ Effective screening measures are required in this case to meet these objectives.

In a case such as this involving direct *side-switching* in the *exact same matter* by the highest law enforcement officer in the nation who speaks and acts for the entire DOJ, screening measures are essential for an effective recusal. Screening measures should be erected promptly.⁶¹ Where there are no screening measures, one cannot argue that a former client's confidences were not violated.⁶² So without effective screening measures, the DOJ cannot argue that AG Barr will not violate his former client's confidences. **SCREENING MEASURES MUST BE IMPLEMENTED!**

Additionally, Mr. Barr's Ethics Agreement should be amended and republished setting forth his immediate permanent recusal, and the immediate implementation of effective screening measures, including the nature of these measures.

Recusal and effective screening measures harm nobody nor anything, and yet protect everybody and everything; particularly AG Barr, Caterpillar Inc., and the public's confidence in

because of prior client representation. Rule 1.10, Comment [1] ("For purposes of the Rules of Professional Conduct, the term 'firm' . . . does not include a government agency or other government entity."). Thus, unlike the situation in private practice where all lawyers associated in a law firm with a lawyer disqualified under Rule 1.9 also are disqualified through imputation under Rule 1.10, in the government context, the lawyers in a government office, agency, or department who work with a personally disqualified lawyer are not barred from representation adverse to the lawyer's former client.

⁵⁹ See, District of Columbia Ethics Opinion 308 – Ethical Constraints on Lawyers Who Leave Private Employment for Government Service: While our Rules do not expressly require such screening in the government context for a lawyer who is disqualified by a prior client relationship under Rule 1.9, consideration and implementation by the government agency of voluntary screening measures that effectively insulate the lawyer from ongoing contact with the matter from which she is disqualified should be considered. Such measures provide important assurances to the lawyer's former clients that the lawyer's ethical obligations under Rules 1.6 and 1.9 are being met and signal an appropriate recognition by the government agency of the importance of these obligations.

⁶⁰ United States Attorney's Bulletin, September 2009, p.4.

⁶¹ United States Attorney's Bulletin, September 2009, p.6. "The screen must be erected promptly. See *Analytica, Inc. v. NPD Research Inc.*, 708 F.2d 1263, 1267-68 (7th Cir. 1983) ("[I]t was not enough that the lawyer 'did not disclose to any person associated with the firm any information . . . on any matter relevant to this litigation,' for 'no specific institutional mechanisms were in place to insure that information was not shared, even if inadvertently,' until the disqualification motion was filed—months after the lawyer had joined the firm."); see also *United States v. Goot*, 894 F.2d 231, 235 (7th Cir. 1990) ("The predominant theme running through this court's prior decisions is that disqualification is required when screening devices were not employed or were not timely employed.") (emphasis added); *Atasi Corp. v. Seagate Tech.*, 847 F.2d 826, 831 (Fed. Cir. 1988) (presumption of shared confidences was not clearly overcome because oral screening measures were not timely employed or adequately communicated); *Cobb Publ'g, Inc. v. Hearst Corp.*, 907 F. Supp. 1038 (E.D. Mich. 1995) (delay of 11 or 18 days in setting up ethical wall is too long)."

⁶² *Analytica, Inc. v. NPD Research, Inc.*, 708 F.2d 1263, 1267-1268 (7th Cir. 1983).

the DOJ. To not do so is problematic to say the least. The fact that Caterpillar Inc. is not demanding this recusal is itself significant. Recusal and effective screening measures avoid serious problems and create none. If there is any doubt, it is to be resolved in favor of disqualification (i.e. recusal with screening measures).⁶³

This is a matter of urgent public importance that is vital to ensure ongoing public confidence in the impartiality and fairness of the Justice Department. The ongoing investigation is an important matter for the DOJ by all of its published measurements. There are few greater public policies than the enforcement of our tax laws. Without revenue to run the government, there can be no government, and no democracy.

(b) (6)

⁶³ Brown v. District of Columbia Board of Zoning Adjustment, 486 A.2d 37, 42 (D.C. 1984).

by the Senate in written questions to confirm his recusal, but he did not even though he noted there is likely to be conflicts regarding this matter, and that certain conflicts cannot be waived.¹ This is one of those conflicts. He was required to report the matter and all attendant facts and circumstances² to the OPR, but there is no indication he has done so. Instead, he has provided vague promises to recuse himself from former client matters for *a short period of time* and *follow all rules and regulations*, yet the rules and regulations require his recusal which he did not provide to the Senate. Caterpillar Inc. is his only former client matter³ and at the center of the investigation, which is larger than any reported case of this kind.⁴

To put this in the broader context of Attorney General Barr's confirmation, there was much said about him recusing himself from the investigations of President Trump. Imagine if President Trump had nominated Rudy Giuliani for Attorney General. Would Giuliani have to recuse himself because he was defense counsel for the President in the investigation? Giuliani's relationship with President Trump as his lawyer is by definition, and by law, more partial than Jeff Sessions relationship with President Trump as a political advisor. In the Caterpillar Inc. case, having their defense lawyer appointed as Attorney General is tantamount to President Trump appointing Giuliani as Attorney General in his case. A lawyer's obligation to his client includes total partiality with ongoing obligations to the client even after the representation has ended.

When the defense attorney in a criminal case becomes top prosecutor overseeing the case, there is a conflict.

On January 8, 2015, the U.S. Attorney's Office for the Central District of Illinois issued Grand Jury Subpoenas to Caterpillar Inc. commencing a criminal investigation.⁵ This investigation led to the production of evidence, expert opinions,⁶ and circumstances that supported the issuance of search warrants for a highly publicized multi-agency raid by over 100 Special Agents. On March 2, 2017, the FDIC, IRS, & Department of Commerce raided Caterpillar

¹ <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55)

² 28 CFR § 45.2(a)&(b)

³ Barr stated in his Senate testimony that he only had one client. Caterpillar Inc. is the only source of legal fees shown on his financial disclosure. Ethics Agreement letter to the U.S. Office of Government Ethics, dated January 11, 2019, with financial disclosure.

[https://extapps2.oge.gov/201/Presiden.nsf/D4CD873798AD3D1F85258381002E4CEE/\\$FILE/Barr.%20William%20OP.%20%20finalEA%20.pdf](https://extapps2.oge.gov/201/Presiden.nsf/D4CD873798AD3D1F85258381002E4CEE/$FILE/Barr.%20William%20OP.%20%20finalEA%20.pdf).

⁴ Caterpillar has disclosed in its Form 10-K for several years that the IRS has assessed \$2 billion of additional tax only for the years 2007-2012, and that it continues to report its federal tax using scheme at the heart of the investigation. For all years involved the tax amount exceeds \$5 billion through 2017, and exceeds \$10 billion if you include penalties and interest.

⁵ See page 22 of Caterpillar Annual Report for year ended December 31, 2014.

https://www.sec.gov/Archives/edgar/data/18230/000001823015000061/cat_10-kx12312014.htm. See also, <http://www.cfo.com/tax/2015/02/caterpillar-discloses-grand-jury-probe/>.

⁶ <https://www.nytimes.com/2017/03/07/business/caterpillar-tax-fraud.html>. Expert witness report states, "Caterpillar did not comply with either U.S. tax law or U.S. financial reporting rules...I believe the company's noncompliance with these rules was deliberate and primarily with the intention of maintaining a higher share price. These actions were fraudulent rather than negligent."

Inc.'s global headquarters and data centers.⁷ Immediately following the raid, Caterpillar Inc.'s CEO personally asked Mr. Barr to provide legal representation regarding the matter.⁸ Mr. Barr then associated himself with the law firm Kirkland & Ellis. Mr. Barr has personally been paid significant sums for this representation which exceed \$1.2 million for 2018 alone.

Your investigation should take into account the conflict of interest created by Mr. Barr's employment by Kirkland & Ellis⁹ which routinely represents PriceWaterhouseCoopers (PwC).¹⁰ PwC is Caterpillar's public auditor and the primary architect, implementer and overseer of the tax scheme that is the subject of the investigation.¹¹ Kirkland & Ellis entered its appearance¹² as the attorney for PwC in a Sarbanes-Oxley lawsuit against Caterpillar Inc. pertaining to this particular tax matter.¹³ The interests of PwC and Caterpillar Inc. are directly adverse to one another in this matter. This conflict of interest was and is public knowledge.¹⁴

If warranted by the results of OPR's and OIG's investigations, the OPR and OIG should issue public findings that Attorney General Barr is violating DOJ regulations and that he is required by DOJ regulations to recuse himself "*permanently*" from all matters regarding Caterpillar Inc., and from any consideration and decisions dealing with these matters.

OPR has jurisdiction to investigate allegations of professional misconduct against attorneys of the Department of Justice that relate to the exercise of their authority to investigate, litigate or provide legal advice.¹⁵ The OIG's mission also includes the detection and deterrence of misconduct by DOJ personnel. It is clear, as well, that this jurisdiction and responsibility includes investigating Attorney General Barr and any apparent violation of DOJ regulations by him. In 2017, in response to a complaint filed by Democracy 21, then Attorney General Jeff Sessions recused himself on the advice of the OPR.¹⁶ In 1988, OPR, in response to a complaint filed by Common Cause, exercised its jurisdiction to investigate Edwin Meese to determine if

⁷ See <https://www.forbes.com/sites/antoinegara/2017/03/02/caterpillars-headquarters-raided-by-federal-authorities-including-doj-and-irs/#33a4e3976f3a> and <https://www.nytimes.com/2017/03/02/business/caterpillar-raid-tax-practices.html> and <https://www.chicagotribune.com/business/ct-law-enforcement-search-caterpillar-0303-biz-20170302-story.html>.

⁸ See <https://www.caterpillar.com/en/news/corporate-press-releases/h/new-caterpillar-ceo-asks-former-us-attorney-general-to-assess-and-help-address-ongoing-government-investigation.html>

⁹ While Mr. Barr describes his relationship with Kirkland & Ellis, he is paid a salary by this firm. See page 4 of Nominee Report, Public Financial Disclosure of Mr. Barr signed December 24, 2018.

¹⁰ See <https://www.kirkland.com/lawyers/b/becker-whitney-1> and <https://www.law.com/therecorder/almID/1202758297218/Kirkland-amp-Ellis-to-Defend-PriceWaterhouseCoopers-in-Discrimination-Suit/?slreturn=20190109163554> and <https://www.leagle.com/decision/infdc020170505a48>.

¹¹ See <https://www.pjstar.com/news/20170320/firm-retained-by-caterpillar-after-raids-has-links-to-tax-strategy>

¹² *Schlicksup vs. Caterpillar, Inc.*, PACER case No. 09-cv-1208, U.S. District Court, C.D. Illinois, Peoria Division, document #92, appearance of counsel filed Monday, 16 May, 2011. Mark Nomellini of Kirkland & Ellis appearing on behalf of PricewaterhouseCoopers LLP.

¹³ *Schlicksup vs. Caterpillar, Inc.*, PACER case No. 09-cv-1208, U.S. District Court, C.D. Illinois, Peoria Division.

¹⁴ See <https://www.pjstar.com/news/20170320/firm-retained-by-caterpillar-after-raids-has-links-to-tax-strategy>

¹⁵ 28 C.F.R. 45.12

¹⁶ See https://www.washingtonpost.com/powerpost/top-gop-lawmaker-calls-on-sessions-to-recuse-himself-from-russia-investigation/2017/03/02/148c07ac-f46-11e6-8cbe-6e0dbe4f2bca_story.html?noredirect=on&utm_term=.41563410ef71.

he had violated administrative rules and provisions of the Code of Ethics for Government Service that barred executive branch officials from using their public positions for private gain.¹⁷ OPR found that Meese as Attorney General had violated these rules as they applied to Justice Department officials.¹⁸

Mr. Barr has stated the following with regard to the current matter. And although he has committed to some limited recusal for a short period of time which is subject to waiver, he would not commit to Senate questions asking specifically for his recusal in this specific matter as required by the DOJ regulations and explained below.

On January 11, 2019, Mr. Barr submitted his Ethics Agreement in a letter to the U.S. Office of Government Ethics.¹⁹ He committed that upon confirmation he “will resign from his position with the law firm Kirkland & Ellis LLP.”²⁰ He also committed that:

1. “For a period of one year after his resignation, he will not participate personally and substantially in any particular matter involving specific parties in which he knows the firm is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. Sec. 2635.502(d);”²¹ (emphasis added)
2. “He will not participate personally and substantially in any particular matter involving specific parties in which he knows that a former client is a party or represents a party, for a period of one year after he last provided service to that client, unless he is first authorized to participate, pursuant to 5 C.F.R. Sec. 2635.502(d);”²² (emphasis added) and
3. “I (Mr. Barr) agree to comply with the conflict of interest statutes and regulations, ...”²³ (emphasis added)

On January 15 & 16, 2019, Mr. Barr testified before the Senate Judiciary Committee. Mr. Barr was sent written questions by members of the Senate following his testimony.²⁴

(Q) “Will you commit to recusing yourself from any matters relating to Caterpillar?”

(A) “It is likely that my representation of Caterpillar will present conflicts, and it is my understanding that certain types of conflicts cannot be waived. If

¹⁷ “Meese’s Department Probes Him,” *New York Times News Service* (July 20, 1988).

¹⁸ “Justice Department Rips Meese,” *New York Times*, (January 18, 1989).

¹⁹ Ethics Agreement letter to the U.S. Office of Government Ethics, dated January 11, 2019.

²⁰ [https://extapps2.oge.gov/201/Presiden.nsf/D4CD873798AD3D1F85258381002E4CEE/\\$FILE/Barr,%20William%20OP.%20%20finalEA%20.pdf](https://extapps2.oge.gov/201/Presiden.nsf/D4CD873798AD3D1F85258381002E4CEE/$FILE/Barr,%20William%20OP.%20%20finalEA%20.pdf).

²¹ Ethics Agreement letter to the U.S. Office of Government Ethics, dated January 11, 2019, page 1.

²² Ethics Agreement letter to the U.S. Office of Government Ethics, dated January 11, 2019, page 2.

²³ Ethics Agreement letter to the U.S. Office of Government Ethics, dated January 11, 2019, page 2.

²⁴ Ethics Agreement letter to the U.S. Office of Government Ethics, dated January 11, 2019, Nominee Statement attached to the letter.

²⁵ <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55)

confirmed, I commit to following all applicable laws, regulations, and rules with respect to my prior representation of Caterpillar and, if necessary, recusing from any matters relating to the company.” (emphasis added)

(Q) “While representing Caterpillar, did you take any formal or informal actions to challenge the basis for the search warrants executed by the government or to challenge the documents collected during the search?”

(A) “Other than information that is publicly available, I am unable to provide further details regarding the nature and specifics of my work for Caterpillar due to the applicable privileges and confidentiality obligations.”

We believe that the failure of Attorney General Barr to recuse himself from the matters set forth above is a violation of DOJ regulations, and that with a Grand Jury investigation already underway and the execution of search warrants in a multi-agency raid by over 100 Special Agents, his recusal has to take place immediately. Therefore, we are calling on you to exercise your responsibility and promptly make clear that Barr must comply with DOJ regulations and “*permanently*” recuse himself from these matters. The grounds for why DOJ regulations require Attorney General Barr to recuse himself in these matters are set forth below.

DOJ Regulations Require Reporting & Recusal
Waiver NOT Possible

The applicable DOJ recusal regulation, 28 CFR § 45.2, applies to all employees of the Department of Justice and provides:

45.2(a) Unless authorized under paragraph (b) of this section, no employee *shall* participate in a criminal investigation or prosecution if he has a personal or political relationship with:

- (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or
- (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

45.2(b) An employee assigned to or otherwise participating in a criminal investigation or prosecution who believes that his participation may be prohibited by paragraph (a) of this section *shall* report the matter and all attendant facts and circumstances to his supervisor at the level of section chief or the equivalent or higher. If the supervisor determines that a personal or political relationship exists between the employee and a person or organization described in paragraph (a) of this section, he *shall* relieve the employee from participation unless he determines further, *in writing*, after full consideration of all the facts and circumstances, that: (emphasis added)

- (1) The relationship will not have the effect of rendering the employee’s service less than full impartial and professional; and

(2) The employee's participation would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.

45.2(c).... For the purposes of this section:

(2) Personal relationship means a close and substantial connection of the type normally viewed as likely to induce partiality....

Mr. Barr was hired as the attorney for Caterpillar Inc. at the personal request of its Chief Executive Officer.²⁵ Mr. Barr was paid more than \$1.2 million by Kirkland & Ellis for representing Caterpillar in 2018 alone.²⁶ By definition, an attorney is partial to his client as the attorney is required by the Rules of Professional Conduct to zealously represent his client to the exclusion of the interests of all other parties. An attorney cannot be impartial with regard to client matters. He is ethically bound to be partial in favor of his client.

Mr. Barr has a personal relationship with Caterpillar Inc. and individuals within the organization that are substantially involved in the conduct that is the subject of the current criminal investigation being conducted by multiple federal agencies. Mr. Barr knows Caterpillar Inc. and individuals within the organization have a specific and substantial interest that will be directly affected by the outcome of the investigation or prosecution. Mr. Barr is ethically bound to be partial in the favor of his clients and has ongoing obligations to them under the Rules of Professional Conduct even after withdrawing his representation. Mr. Barr is now the chief law enforcement officer in the United States sworn to uphold the rule of law, and to investigate and prosecute those who violate the law. Mr. Barr's obligations as Attorney General of the United States are in direct conflict with his past and ongoing obligations to Caterpillar Inc. This direct conflict and adverse interests preclude any possibility of Attorney General Barr avoiding a conflict of interest or the appearance of a conflict.

The DOJ regulation states that Mr. Barr shall report this matter and all attendant facts and circumstances to the OPR. The DOJ regulation states that Mr. Barr shall be relieved from participation in the investigation of Caterpillar Inc. unless the OPR determines, in writing, that Mr. Barr can be impartial and that Mr. Barr's participation will not create even the appearance of a conflict of interest that is even likely to affect the public perception of the integrity of the investigation or prosecution. This is not possible! This complaint is evidence that any participation by Mr. Barr in the investigation of Caterpillar Inc. is already considered to be a conflict of interest, not merely likely to create an appearance of a conflict.

While Attorney General Barr has previously stated he will comply with DOJ regulations, to date there is no public indication that he has taken any steps to report this matter or recuse himself from the ongoing investigation by the DOJ and three other government agencies. His failure to do so is

²⁵ <https://www.caterpillar.com/en/news/corporate-press-releases/h/new-caterpillar-ceo-asks-former-us-attorney-general-to-assess-and-help-address-ongoing-government-investigation.html>.

²⁶ Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e), page 4-5. [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/FE446AE51F24A2D685258381002E483C/\\$FILE/Barr.%20William%20P.%20%20final278%20.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/FE446AE51F24A2D685258381002E483C/$FILE/Barr.%20William%20P.%20%20final278%20.pdf). Mr. Barr indicated in his oral testimony before the Senate that he only had one client. Caterpillar Inc. is the only client listed as a source of income from providing legal service; see page 7.

in violation of the applicable Departmental regulation at 28 C.F.R. § 45.2(a). Attorney General Barr told the Senate, “It is likely that my representation of Caterpillar will present conflicts, and it is my understanding that certain types of conflicts cannot be waived.”²⁷ He knows there is a conflict and he knows it cannot be waived.

We call on OPR and OIG to undertake an investigation into the Attorney General’s failure to comply with Departmental regulations that require his recusal from the Department’s and other agencies, investigation of Caterpillar Inc. If the results of the investigation show, as we believe, that Attorney General Barr has failed to recuse himself from this matter as required by DOJ regulations, OPR and OIG should make public findings to that effect, impose appropriate sanctions on Attorney General Barr and take whatever additional steps are required to ensure that all DOJ attorneys, including the Attorney General, comply with Justice Department rules.

This is a matter of urgent public importance that is vital to ensure ongoing public confidence in the impartiality and fairness of the Justice Department. This is an important matter for the DOJ by all of its published measurements. There are few greater public policies than the enforcement of our tax laws. Without revenue to run the government, there can be no government and no democracy. The precedential impact of this matter is far reaching and dramatic with a material impact upon tax revenues.

(b) (6)

²⁷<https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55)

From: (b) (6)
To: [OPR Complaints](#)
Subject: USAG William Barr
Date: Sunday, May 19, 2019 2:08:26 PM

My name is (b) (6) .

I wish to file a complaint against US AG Willam Barr.

He has misrepresented the Report by Special Counsel Robert Mueller.

He has stated that this President did not obstruct that investigation, when the report itself stated there were many attempts to do so. By his statement, Mr Barr has lied, which should disqualify him from acting as the head of DOJ.

He is acting on behalf of the President, not on behalf of the American People, nor of the Constitution, to which he swore an oath.

Please look into this matter and his behavior. He is under to sieve the American People, and in fact, he is not doing so. Let someone honorable serve.

Thank you for your time.

(b) (6)

From: (b) (6)
To: [OPR Complaints](#)
Subject: William Barr
Date: Saturday, May 18, 2019 5:11:18 PM

My name is (b) (6) (b) (6)
my telephone number is (b) (6)

I want to file a complaint against William Barr, my Attorney General

It is clear from even the redacted Mueller Report, that President Trump obstructed justice. It is clear from Barr's statements that he believes Donald Trump to be above the law. It is also clear that William Barr wrote a false and misleading statement to exonerate Trump from Obstruction.

The AG works for the people of the United States, not Donald Trump

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From: (b) (6)
To: [OPR Complaints](#)
Cc: (b) (6)
Subject: COMPLAINT RE: AG BARR ATTACHED
Date: Monday, May 20, 2019 9:04:30 AM
Attachments: [AS FAXED 5-5-19 COMPLAINT re BARR 2 IGDOJ.pdf](#)

To: IG Horowitz via fax at (202) 616-9881 (complaint hotline) and Director Amundson at opr.complaints@usdoj.gov

Dear Inspector General Horowitz and Director Amundson

I faxed the attached complaint to the IG hotline on May 5. I have not received a confirmation that you even received my fax.

In just the past two weeks since I first submitted the complaint AG Barr has further politicized his position and the DOJ. Any US Attorney who did what he has done would have been severely reprimanded or fired.

I am hereby resubmitting this complaint to IG Horowitz and submitting it directly the Office of Professional Responsibility for the first time.

Would each of you kindly:

1. Acknowledge receipt of my complaint via email to (b) (6) or by telephone call to (b) (6) or (b) (6)
2. Answer me as to whether or not I have standing to bring my complaint.
3. Let me know whether or not you are pursuing my complaint, the approximate timing, and whether it's unique or is being grouped with others alleging the same offenses.

Thank you both very much. I look forward to your responses.

Time is of the essence: "justice delayed is justice denied."

(b) (6)

(b) (6)

Complaint to DOJ IG against Attorney General Barr

To: IG Horowitz via fax at (202) 616-9881 (complaint hotline)

U.S. Department of Justice
Office of the Inspector General
Investigations Division
1425 New York Avenue, NW
Suite 7100
Washington, DC 20530

Dear Inspector General Horowitz:

I'm submitting here a fraud, abuse, and misconduct complaint against Attorney General Barr. I'm sure this is not the first one you've received. Nevertheless I ask that you review it carefully for any additional justification of conclusions of any already ongoing investigation.

Time is of the essence. I request that you handle this complaint expeditiously. Please ask for further information from me if you deem it necessary, and report your findings as soon as possible.

All of the evidence to support my complaint is public and I reference it only obliquely. I'll assemble details from the media for you if you tell me that you need them to complete the investigation.

If your investigation substantiates my allegations then I'll seek remedies via any appropriate channels open to me.

Do I have standing to bring this to you?

1. I'm a natural-born citizen of the United States.
2. I pay Federal income tax and am not under scrutiny or otherwise in trouble with the IRS.
3. I am not paid by, or affiliated with, any foreign government, lobbying organization, PAC, or organized political influence group. I am simply a registered Democrat.
4. I have never been convicted of or indicted for a crime, or investigated by law enforcement.
5. I am not an attorney or otherwise acting on behalf of any third party(s) in this matter, except on behalf of my children, my grandchildren, and the People of the United States.
6. I'm not, and never was, an employee of, or contractor to, the U.S. Government.
7. I have no financial or other interest in the outcome of this investigation, except for doing the right thing.
8. I will swear under oath to the above statements if need be!

Thank you. I look forward to seeing the results of your investigation.

Respectfully submitted,

(b) (6)

Summary:

AG Barr continues to perpetrate a fraud on the **Public** (defined below), is abusing his office, is in violation of the DOJ Mission and is violating the Constitutionally stated authority of Congress in the matter of releasing the *Special Counsel's investigation and report on Russian interference in the 2016 election (Mueller Report or Report)*. Public means voting-aged citizens, their representatives in Congress, commercial media outlets, soon-to-be-voting-aged youth, and perhaps even middle school children who are learning about Government.)

AG Barr's misconduct consists of a series of misleading public statements, omissions of fact, and personal opinions that he makes as the Attorney General voice of the USDOJ. These acts (the **Construct**, defined below) serve to mislead the Public about the actual contents and conclusions of the Mueller Report. This Construct causes AG Barr (and the entire DOJ by inference) to appear to endorse or parrot the misleading **Narrative** (defined below) of the president and his partisan operatives to the exclusion of all other information or opinion in the Report. The net effect is that many in the Public believe that the Mueller Report consists solely of the Narrative, and that the Narrative therefore has credence because it is being offered by the DOJ to the exclusion of all other findings.

The **Construct**:

The Construct consists of three performances by AG Barr on the Public stage. Two are complete and one is ongoing. All of the performances are characterized by statements and acts that individually contravene the stated objective of the DOJ's Open Government Plan 4.0 of 2016.

The Construct creates a grand act of prevarication by equivocation of the facts and obfuscation of the truth.

The Mueller Report is long and technical and is unlikely to be fully read and digested by the vast majority of the Public. Therefore their knowledge of the Report is likely to be based on clips in nightly news or brief statements in other media. This Construct has gradually framed a public (and largely false and misleading) position about the Mueller Report in small increments.

1. Barr's performances:
 - a. Release of a written 'Barr interpretation' of the Report
 - b. Conducting a national press conference that staged a visual and verbal 'Barr Interpretation' prior to public release of the Report
 - c. His public testimony before Congress
2. Barr's statements and acts:
 - a. Selective emphasis and omission of Report summary and conclusion information
 - b. Obfuscation by mixing and substitution of strict statutory terminology with loose non-statutory (non-legal) and/or parroted partisan language
 - c. Repetitious parroting of exact partisan terminology
 - d. Use of misleading terminology and context in statements
 - e. Comingling of strict statutory terminology with loose partisan language
 - f. Introduction of unfounded innuendo supporting the partisan lines of messaging previously used by the WH and its communication operatives
 - g. Use of generally perceived to be derogatory terms to label legal or harmless actions
 - h. Subtle mischaracterizations of items in the Report or of his own actions
 - i. Use of strict statutory law as a tool to be uncooperative with, or defiant of Congress
 - j. Failure to give simple, direct answers to Congressional Democrats
 - k. Use of deflection via statutory discussion to avoid answers to
 - l. Congressional Democrats
 - m. The use of other agency officials on stage as unspeaking props in the televised press conference
 - n. Refusal to request of a Federal Court, per precedent, the release of the full un-redacted Report to appropriate Congressional committees. Presented said refusal arrogantly with a shrug and with no explanation.

- o. Overall quietly defiant and obstructive demeanor...conveys a position of combativeness.
- p. Refusal to appear before the House Judiciary voluntarily as a cooperative witness with unwarranted pretense
- q. Hides behind statute, but speaks to partisanship position

The **Narrative**:

The Narrative is an incomplete and false story about the Russian election interference and the president's subsequent and related behavior which is laid out in detail in both volumes of the Mueller Report. The Narrative is delivered by presidential tweets online, presidential shouts in the WH driveway, and by his political and legal partisans who echo it and define it further in the media. It is a partisan position, therefore intended to shape public perception. It has misled and at best confused many members of the Public about what is actually in the Report.

Discussion:

AG Barr's public appearances are widely distributed in the news and social media. The Russian election interference is a major historical event and the Mueller Report about it has been eagerly anticipated by many in the Public.

By delivering his Construct to the Public AG Barr has crossed over from his role as a DOJ legalist to that of the president's partisan. As a political partisan he is using the persuasive influence of the DOJ on the Public (in an insidious and underhanded way) to usurp Congress' Constitutional role. AG Barr has violated his Oath of Office. Congress has the *responsibility* to continue to investigate in the interest of national security and executive oversight plus the *authority* to examine related evidence and proceed to legislate or impeach if it so wishes.

Congressional people and processes, including impeachment and conviction, are by nature political, since Congress is elected by, and represents, the body politic. Conversely, DOJ processes and people, including the AG, are statutory and non-partisan. The AG is an unelected (appointed) official of the Executive Branch, which is sworn to faithfully *uphold* and *execute* the written laws (statutes), including the Constitution. It is my understanding that DOJ Policy

supports this view by allowing only what one would call "close to the vest, stick to the facts" public statements from attorneys and prohibiting otherwise.

In addition to subverting the DOJ's Open Government Initiative and violating his Oath of Office Barr has failed to carry out the mission of the DOJ as posted on its website:

"Our Mission Statement

To enforce the law and defend the interests of the United States according to the law;

to ensure public safety against threats foreign and domestic;

to provide federal leadership in preventing and controlling crime;

to seek just punishment for those guilty of unlawful behavior; and

to ensure fair and impartial administration of justice for all Americans."

In his handling of the Mueller Report and the use of his Construct to communicate to the Public, and by virtue of his resulting politicization of the DOJ, and his undermining of the Congress' authority he has thus failed on all five of the Mission Statement points.

Whoa there! *Is this another conspiracy theory? Maybe it's the unintended consequence of good intentions...*

Although I personally believe that AG Barr has done this with a malice aforethought, the question of *intent* is completely immaterial. His Construct has had a profound effect on the Public's current political sentiment. You can't put the toothpaste back in the tube. Shaping political sentiment with partisan behavior interferes with the ability of Congress, a political body responsible to the Public, to carry out its obligations.

If his Construct was *unintentional* then it demonstrates an absolutely astounding level of stupidity and incompetence. If *intentional* then it's probably an impeachable offense. Either way the damage is done; he needs to be judged for it and the breach repaired. He does not deserve to hold the office of Attorney General.

Perhaps the most tragic effect of Barr's behavior is that the DOJ has not only failed to get the Public to fully understand the 2016 election interference in Volume I of the Report, but it has failed to alert it to the threats to the 2020 election. AG Barr, silently echoing the president, remains mute on the Report's

characterization of interference. This has allowed the Public to be lured into a dangerous level of complacency. That complacency is further reinforced by a combination the president's utter silence on the threat, his buddy-buddy parroting of Putin that undermines statements of the US Intelligence Community, and a political diatribe that attacks anybody who dares to raise the issue of Russian election interference.

That diatribe has actually gone so far as to use McCarthy-era tactics with an ironic twist. It is now branding US public officials seeking truthful information as "traitors" attempting a "coup," thus mimicking the infamous Army-McCarthy hearings which featured McCarthy's counsel and the president's mentor Roy Cohn.

AG Barr's Construct has abetted the Narrative in sinking to a below-gutter sewer-level.

Conclusion:

Either AG Barr is a legalist or AG Barr is a partisan propagandist, but he can't be both at the same time and be Attorney General as well. Being both is what a personal defense attorney like Rudy Giuliani does. Giuliani the president's defense attorney, Barr is supposed to represent ME and the People.

If AG Barr maintains (as he did and as he does) that the extent of DOJ's responsibility is to determine whether or not there is a statutorily prosecutable offense then he must refrain from any partisan participation. Every individual act of failing to do so interferes with the Congress' (political) authority and responsibility. Political decisions about lawmaking or impeachment belong in Congress amongst the People's elected representatives and the two chambers, not at the DOJ. I reiterate that faithful *execution* of the law and nothing more, is what Barr is supposed to be doing.

AG Barr has been careful that his individual acts do not violate any law. Taken as a whole however, they constitute an insidious, slowly rising curtain revealing abuse of office and I believe illegal intent.

Additional Remarks and Request:

- The moment AG Barr released the 'Barr interpretation' of the Mueller Report his position was **questionable**.
- The morning he performed another 'Barr interpretation' in a pre-release press conference parroting the president's words he became *at best* **dubious**.
- His subsequent words, his defiant speech and behavior toward Congress, and his arrogant, stubborn public defense of his misleading statements have shown that without doubt **he is nothing but a partisan propagandist**.

I'm not a trained attorney or legal person but I firmly believe that AG Barr's actions as a whole are illegal and somehow constitute obstruction of Congress or some such thing. However I recognize that this is a subject for another day and another channel.

But because there is such high resemblance between AG Barr's Construct (both method and content) and the president's Narrative, I therefore also ask that you include as part of this complaint a separate and distinct investigation as to whether the president of the United States was in any way complicit in orchestrating AG Barr's Construct. I ask that you proceed as quickly as possible to investigate and deliver the findings to appropriate Congressional oversight personnel.

From: (b) (6)
To: [OPR Complaints](#)
Subject: Attorney General William Barr
Date: Friday, March 29, 2019 10:08:14 PM

I am writing to file a complaint against AG William Barr. As a US citizen I have the right to review Special Counsel Mueller's report and he does not have the right to redact and withhold this information from congress and Americans. Release it NOW!

From: (b) (6)
To: [OPR Complaints](#)
Subject: A.G. Barr
Date: Tuesday, April 30, 2019 8:22:18 PM

A.G. Barr has made a mockery of justice. DOJ now stands for DEPARTMENT of JOKES. Barr's handling of the Mueller Report is beyond despicable, and he should resign immediately. I say this as an attorney and as a deeply concerned American citizen.

(b) (6)
Texas Attorney
Texas State Bar No. (b) (6)

From: (b) (6)
To: [OPR Complaints](#)
Subject: Attorney General Barr
Date: Thursday, May 2, 2019 12:36:50 PM

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I'm writing to your office to complain about how Attorney General BARR he is NOT representing the people of America. I request he is punished for lying to Congress, I also request he is punished for not showing up to the hearing this morning. He is NOT above the law period.

For your staff, I'm very sorry for all the turmoil you must be going through. My heart is with you all and know you are doing your best. Thank you.

I am a nobody that takes care of her disabled husband who is a vet. He had a stroke in 98. I have cared for him after just 4 yrs of marriage when he went down it's almost 21 yrs I've cared for him. I have been through cancer twice. I'm tired and now I have to face no medical for me. I will die, who will care for my hubby? I'm scared. That's what all this Trump crap is doing to me. Can't imagine others that will die.

IM ASHAMED OF OUR COUNTRY. THE GREED IS OVERWHELMING. I DONT WANT A CIVIL WAR.

IF I WERE YOU WORKING IN THAT OFFICE I WOULD WALK OUT ON STRIKE. STAND UP TO THE LAWLESSNESS PLEASE.

GOD BE WITH YOU ALL BUT BARR.

Have a nice Day.

From: (b) (6)
To: [OPR Complaints](#)
Cc: [Senator Merkley](#); [Senator Wyden](#); [peter defazio](#)
Subject: USDOJ Attorney Misconduct Complaint
Date: Thursday, May 2, 2019 4:53:48 PM

(b) (6)

May 2, 2019

Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

Person Accused of Misconduct: William P Barr, 85th Attorney General of United States of America

Details of the allegation:

William P. Barr has violated his remit to represent the United States, and thus the American people, in legal matters. He has repeatedly demonstrated that he has a calculated and self-interested bias in matters relating to the executive branch of government in general and Donald J. Trump in particular. This bias has resulted in the obstruction of investigations into certain actions of the president, his cabinet, members of his election campaign committee and foreign powers in their attacks upon our nation via social media, disinformation campaigns, election interference and other actions mean to harm our nation.

William Barr has lied to the American people he is obligated to serve and violated the rule of law and his constitutional oaths. He has done so brazenly and repeatedly in his public statements and in his statements to Congress.

William Barr has refused to cooperate fully with Congress in their efforts obtain the full Mueller Report and associated evidentiary materials. He has refused to appear before the House for questioning.

His behavior and actions undermine the constitutional rights of the people and fail to support the Rule of Law. As the people's lawyer, he has effectively abandoned citizens in favor of a vile and corrupt cover-up that places our nation in grave danger.

William Barr's conduct demands of a full investigation.

Thank you for your time and attention to this critical matter..

Sincerely,

(b) (6)

laws. If you are not the intended addressee, please notify the sender by return email; then destroy this email and any attachments and retain no copies. Any unauthorized use, disclosure, transmission or copying of this email, in whole or in part, is strictly prohibited. All rights and privileges are expressly reserved by the sender. Thank you.

From: (b) (6)
To: [OPR Complaints](#)
Subject: Filing a complaint against Attorney General William Barr
Date: Thursday, April 25, 2019 5:21:52 PM

I am officially filing a complaint against Attorney General William Barr.

- He submitted the original letter to congress and the public about the Mueller report and it was deceiving.
- He has obstructed justice by asking one of his DOJ officials not to obey a subpoena from congress.
- He is tampering with the investigation of the SDNY.
- He has accused the democrats of spying on the Trump organization knowing full well this was surveillance approved by 3 judges.
- He is representing the President as a personal lawyer instead of being the representative of the USA.
- He has ties with Alpha Bank (Russian) and other Russian interests and therefore should have recused himself from the Mueller investigation and report.

How do I formalize this complaint?

(b) (6)

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(b) (6)

From: (b) (6)
To: [OPR Complaints](#)
Cc: info@aclusandiego.org
Subject: AG Barr must release the Mueller investigation report in full to Congressmen & women with top secret clearances...
Date: Tuesday, April 9, 2019 2:55:49 PM

...and as much as possible to the American people. We, the people, cannot allow the Attorney General of the United States to act as a president's attorney, rather than being the top officer to see that justice is done in the United States. The AG is supposed to stand up for equal justice for all. I object to AG Barr's cover-up behavior.

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

(b) (6)

From: (b) (6)
To: [OPR Complaints](#)
Subject: William Barr Performance
Date: Thursday, April 18, 2019 9:36:02 PM

April 18, 2019

To the DOJ,

I never thought I'd be writing to the DOJ, much less complaining about the AG of the United States.

William Barrs performance this morning was shocking. It was essentially a series of talking points and sound bites to cover for a president that we've all watched obstruct justice in real time. If it's ok to meet with a hostile foreign country to "get dirt" on a political opponent, ask the same hostile country to hack into their opponents emails, direct your "fixer" to set up and then pay off porn stars to keep them quiet about your behavior to influence an election, this country is in big trouble.

And it's obvious William Barr is Trumps new Fixer.

Reprehensible. Who's supposed to safeguard this country now?

That's a serious question, not a rhetorical one.

(b) (6)

Sent from my iPhone

From: (b) (6)
To: [OPR Complaints](#)
Cc: [Senator Bennet@bennet.senate.gov](mailto:Senator_Bennet@bennet.senate.gov); DeGette@mail.house.gov
Subject: UNLAWFUL CONDUCT BY THE ATTORNEY GENERAL OF THE UNITED STATES - WILLIAM BARR
Date: Thursday, May 2, 2019 12:56:41 PM

As a concerned American citizen, I am hereby filing an ethics complaint against the current US Attorney General William Barr. After watching a good part of yesterdays Congressional hearings regarding the roll out of the Mueller Report, listening to Barr's testimony, it is clear this man is unfit to serve as the Attorney General for the United States. His statements make it clear that his intent is to personally represent the interests of Donald Trump, the current occupation of the White House. Evidence has proven that he, Donald Trump, is engaged in criminal activities that endanger our country... our Democracy.

It was clear that Barr lied under oath. It is clear that he holds views regarding presidential authority and adherence to the Rule of Law that are not based in actual law or the Constitution. This morning he followed up his arrogant testimony by failing to appear for a scheduled hearing at the House Judiciary Committee. Basically Mr. Barr continues to thumb his nose at the Rule of Law in order to continue his personal support of a Lawless president.

Barr needs to resign his position for the good of the country.... If Congress does not impeach him first. Please investigate his behavior and take appropriate action including his removal from public office.

Respectfully,

(b) (6)
[Redacted]
[Redacted]

Sent from [Mail](#) for Windows 10

From: (b) (6)
To: [OPR Complaints](#)
Subject: Complaint against U.S. Attorney General William Barr and others
Date: Thursday, May 2, 2019 4:27:15 PM

My name is (b) (6), my address is (b) (6), (b) (6). My email address is (b) (6) and my phone number is (b) (6). I would like to have U.S. Attorney General William Barr investigated for misconduct, specifically, for lying to Congress and the American people, saying he could be impartial when he could not, and for obstructing justice. There's a bigger story under the surface here, and I want you to look at it.

I am concerned that Mr. Barr is acting under duress, not simply obstructing justice out of loyalty to the man who appointed him to office, but rather ensuring secrecy around his own involvement with his pal Jeffrey Epstein, who was known to throw parties for wealthy men to meet, and perhaps rape, underage girls with impunity (every rape that wasn't prosecuted, Epstein got away with). In fact, the influential man who gave Epstein a pass to do this was, like Barr, the recipient of a presidential appointment. Add to that the fact that a massage parlor was also being run out of Mar-a-Lago, and there seems to be reason enough to investigate why Barr would risk his reputation to cover for Trump even after Mr. Mueller exposed his crimes.

As a survivor of abuse, I know how abusers operate: They enforce silence with the threat of public--and in Barr's case, global--humiliation, and this is what Trump does to everyone who fails to cover for his indiscretions. Barr is solidly in the Trump Camp, and accepting the appointment as Attorney General required that he lie to Congress about his loyalties. In doing that, he failed to uphold the Constitution, and he has utterly failed in his duties to the American people. He undermined the DOJ by failing to respect the hard work of Robert Mueller, and he ruined any hope of justice for crimes that are obvious to those of us who already feel that the burden of proof has been met.

The founding fathers knew what they were doing when they made Congress and the Judicial Branch checks against abuses of power by the Executive Branch. However, given that the president is allowed to appoint his own "checkers," including appointing the head of the DOJ in mid-investigation, this failsafe malfunctioned. I am asking you to step in and defend the spirit and intent of the Constitution by investigating whether Barr might be acting under duress to prevent his own public humiliation, which is sure to follow anyone who defies the Obstructor in Chief. It would make sense that he would have to act to cover up something as unthinkable as being even an inadvertent guest at one of Mr. Epstein's "events."

Barr must be investigated for possible involvement with his friend Jeffrey Epstein's "sex parties" with underage girls. Three women accused Trump of participating in such parties, but those suits were dropped--one woman stated that her family was threatened if she ever told, but she spoke up anyway. However, because these girls were underage, even with a civil suit dropped, those activities can still be investigated as crimes that may be part of a "ring," and they should be. Even with signed NDAs, those women could be interviewed as part of a criminal investigation into the existence of sex-trafficking "cabals" held in place by powerful men. If Barr were present or had knowledge of the crimes of his friends, or if someone had photos of him engaged in such activities, it would explain why he was more than willing to commit high crimes against our nation to cover this up--crimes like obstruction and lying to Congress. Barr certainly knows that when anyone is disloyal to Trump, his dirty laundry gets aired on Twitter for all the world to see, true or not. I'm sure Mr. Barr knows that if he doesn't toe the line, whatever Trump knows about HIM will also be viciously disclosed for the entire world to see. What a burden.

Alexander Acosta was rewarded with a cabinet position after he gave Jeffrey Epstein a pass for serial rape of underage girls, and Epstein was a known associate of both Barr and Trump, who has been accused by at least three young women of similar crimes. These suits were dropped, and I don't know why, but again--statutory rape is still a crime, and it's a crime I want you to investigate if it involves our AG, our president, or our Secretary of Labor. Given that a similar "massage parlor" scenario was uncovered at Mar-a-Lago, for "dignitaries," it seems to me that the notion of involvement, and blackmail,

could be at play, and the idea of a cabal of powerful men abusing women is not farfetched at all--it already happened, and the man got a pass.

Sex trafficking of underage girls will continue as long as powerful men are allowed to terrorize women with impunity. There will be no justice as long as some men are perceived as being above the law. The prevailing view is that a good attorney can get a rich man out of anything, and Mr. Barr has allowed himself to be Mr. Trump's good attorney--at the taxpayer's expense. I resent that my taxes pay his salary when he obviously only works for Donald Trump, who knows about Epstein's social life because he commented on it as if it were funny (not sure if that was before or after he denied ever knowing him, but I guess it doesn't matter).

Jeffrey Epstein is a criminal, and Barr and Trump are his friends, and both Barr and Trump are acting like they have something to hide. If I were a teenage boy in a car, the police would be justified in a search of my car for that alone. Don't tell me that the DOJ needs more, because there's always a loophole to be found. I trust you will find it. We need to end sex trafficking by attacking the problem at its source--on the demand side. We must bring down the most powerful men who are doing it, even if they are wealthy, to show other men that they don't stand a chance of getting away with it. Prosecuting Jeffrey Epstein and everyone else involved in this ring will be a far better deterrent than letting Trump select people to his cabinet based on where they stand, or I should say lie, on the issue. Show the American people that raping young girls isn't part of the bounty of being rich.

Please interview those girls who were at Jeffrey Epstein's parties, and the ones who allege that Trump was there, too. Find out whether Barr is beholden to Trump because he was also there, a part of this "cabal" of men who believe they've earned the right to rape young girls with impunity. This problem is so much deeper than William Barr, but I fear it may involve him because of his deferential treatment of a man who condones assault, as long as it's being perpetrated by rich white men who see themselves as having unspoken permission to "grab 'em by the pussy."

Birds of a feather flock together, and to keep those birds from pecking Lady Justice to bits, the crimes of influential men must be prosecuted more vigorously than any other, in spite of civil suits being dropped. Our daughters are not safe as long as sex trafficking is lucrative and unpunished due to privilege and "who you know." Exposing this ring of men who believe they are above the law is the beginning, and I trust the women who are insisting that both Trump and Epstein are involved, and I want to know whether Barr is involved also. The truth may be an interview away. And if Barr is part of this creepy cabal of powerful men who see the world as their oyster and young girls as their concubines, and he's defending Trump to hold this organization in place, he is unfit to head the Department of Justice.

Thank you,

(b) (6)

From: (b) (6)
To: [OPR Complaints](#)
Subject: Complaint: William Barr's Notre Dame speech violated First Amendment, mixed campaign and government business
Date: Thursday, October 24, 2019 9:35:17 AM
Attachments: [Faithful America Complaint - 13,649 Signatures.pdf](#)

CONTACT: (b) (6) (b) (6)
(b) (6) Faithful America
(b) (6)

Dear Director Amundson,

On behalf of the Christian 501(c)4 organization Faithful America, I am filing this complaint against Attorney General William Barr in regard to his public remarks on "religious liberty" at the University of Notre Dame on Friday, October 11, 2019.

The Attorney General delivered this speech in his capacity as a government official: The remarks include a reference to his job title and are [posted on the official Department of Justice website](#). The text of these remarks clearly favors religion over non-religion, and Christianity over other religions. This is a violation of Mr. Barr's oath to support and defend the Constitution's guarantee of religious liberty to *all* Americans, not just those who hold Judeo-Christian views.

The Attorney General's remarks also appear to have been a possible coordinated execution of the Trump Pence 2020 campaign's reelection strategy, an improper use of government resources.

Faithful America is the country's largest online community of Christians putting our faith into action for social justice. A petition [signed by 13,649 of our members](#) in support of this complaint is attached to this email, along with additional comments from many of those members.

Failure to Defend the Religious Liberty of all Americans

Text of William Barr's speech: <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-law-school-and-de-nicola-center-ethics>

In his Notre Dame speech, the Attorney General said it is better for the nation to follow religious values than non-religious values, blaming "militant secularists" for many of America's social ills. He declared, "No secular creed has emerged capable of performing the role of religion." Mr. Barr also quoted John Adams as saying, "Our Constitution was made only for a moral and religious people." This Adams quotation is a personal opinion rather than a binding Constitutional interpretation, and is appalling for our nation's chief law enforcement officer to favorably cite in official remarks. Legally, the Constitution is and must be for all Americans, including those who are not "a religious people."

These official remarks not only show inappropriate favoritism to religion over nonreligion, but also favor Christianity over other religions. The Attorney General specifically lifted up Judeo-Christian values as "the ultimate utilitarian rules for human conduct." While this was one of five references to "Judeo-Christian" values and moral systems, Mr. Barr also made numerous

positive references to Christianity alone, but no mentions of Judaism alone. He cited perceived attacks on conservative Christianity as evidence of "secular" and "progressive" attacks on religious liberty but did not mention any other religions, despite numerous recent attacks on American Muslims and Jews from supporters of the administration.

What was presented as a defense of religious liberty for all Americans quickly became an attack on the religious freedom of everyone except conservative Christians. Not only do these remarks violate the Attorney General's oath to treat citizens of all religions (and none) equally, they also call into question his ability to defend the civil rights of atheists and other non-Christians.

Christian Nationalism

Faithful America is a participant in the broad coalition "[Christians Against Christian Nationalism](#)." Christian nationalism is a dangerous political ideology that seeks to merge Christian and American identities, demanding that Christianity be privileged by the government and implying that to be a good American, one must be Christian. This is the ideology that was on display during the Attorney General's speech.

In contrast to the beliefs of Christian nationalism, one's religious affiliation and values -- or lack thereof -- should be irrelevant to one's standing in the civic community. Moreover, as the Constitution makes clear, it is the government's duty not to prefer one religion over another or religion over nonreligion. Mr. Barr failed in this duty at Notre Dame.

Government and Campaign Collusion

The timing of the Attorney General's speech is suspect. His speech came just three days before Secretary of State Mike Pompeo delivered a speech called "On Being a Christian Leader," as well as three days before President Trump told the Values Voters Summit that progressive Americans "resent and disdain faithful Americans," and "are trying to silence and punish the speech of Christians and religious believers of all faiths."

On June 30, 2019, the news website [Axios](#) reported that according to the president's campaign officials, "President Trump's re-election campaign is developing an aggressive, state-by-state plan to mobilize even more evangelical voters than supported him last time." Mr. Barr appears to be possibly engaged in a coordinated strategy by campaign and administration officials to signal to Christian voters that they must support the president in 2020. In light of this pattern, we are forced to ask: Is the supposedly independent Attorney General using his official capacity to improperly further the goals of a politician's reelection campaign?

Requests

As Americans and as Christians, we request that Mr. Barr's October 11 speech be removed from the DOJ website, that he apologize for making remarks in favor of Christian nationalism, and that he deliver a new speech outlining new steps to combat right-wing attacks on the religious liberty of Muslims, Jews, Sikhs, progressive Christians, American Indians, and atheists.

Thank you.

Sincerely,

(b) (6) |

(b) (6)

(b) (6)



**FAITHFUL
AMERICA**

Love thy neighbor.
No exceptions.

October 24, 2019

Re: 13,649 Christian Signatures to Investigate William Barr's
Christian Nationalism

Dear Director Amundson,

Attorney General William Barr has a Constitutional duty to guarantee justice for people of all faiths and none. On October 11 at Notre Dame Law School, he betrayed this duty by suggesting that only Judeo-Christian Americans hold proper values, and that "secular" citizens are to blame for the country's problems. The speech was delivered in his official capacity and remains posted on DOJ's official website.

As Christians, we reject this distortion of the Gospel for political purposes as toxic Christian nationalism. As Americans, we call on the Inspector General and the Office of Professional Responsibility to investigate the Attorney General for delivering a speech that violated his duty to guarantee religious freedom.

Sincerely,

The Undersigned 13,649 Members of Faithful America

Wow! Just mind-boggling. Hypocritical Christian Nationalist tripe. Is this a violation of separation of church and state?

— (b) (6)

It would help if you posted a link to the speech so we can see what we're protesting.

— (b) (6)

Mr. Barr does not represent me or any of the Christians I know. God and Jesus are not about exclusion, I was taught. I grew up with the teaching: "Love thy neighbor as thyself", not "love only people who agree with my view of religious doctrine and action in the world". Mr. Barr's choice of words and venue, acting in his capacity as Atty. General, must be investigated by the Inspector General and the Office of Professional Responsibility.

— (b) (6)

I've read AG Barr's speech. He has a right to have those thoughts. He should have kept them to himself. He took an oath to uphold the Constitution. It forbids the government from elevating one religion above others -- or none.

— (b) (6)

To Barr: stop playing the victim card.

— (b) (6)

To Barr: you're no fellow Catholic of mine!

— (b) (6)

The job of the AG is to be the PEOPLE's lawyer, not the presidents. Further, his speech at Notre Dame was offensive to anyone who studied US history. We ARE a secular nation- with a Constitution that clearly says 'separation of church and state'. We are not, and do not want to be a christian theocracy! Barr needs to go and be disbarred for his behavior and actions.

— (b) (6)

Barr's conflicts of interests and CORRUPTION have been on full display since BEFORE he was confirmed!

— (b) (6)

I hope Notre Dame Law School has learned to check out the ideas of the person they invite in the future.!!!

— (b) (6)

Dear Barr, This is supposed to be a nation which respects ALL religions as well as people of no religion. There is a concept you should be familiar with, the separation of church and state. Apparently you need to go back and take some civics classes. You are supposed to be the peoples' Attorney not a lackey for Trump or any single religious leader or religious faith. A disgusted citizen, (b) (6)

— (b) (6)

I am an alumnus of Notre Dame and I deplore William Barr's mindless defense of so-called Christian values at my alma mater. True Christian values honor human freedom which Barr would deny.

— (b) (6)

WILLIAM BARR IS A HYPOCRITE...HE WHO LIES AND COVERS UP THE MONSTROSITY THAT IS TRUMP...AS A GRADUATE OF NOTRE DAME, I WAS HORRIFIED THAT BARR WAS INVITED TO SPEAK THERE, GIVEN HIS PART IN COVERING UP THE SINS OF TRUMP....BARR HAS NO IDEA OF WHAT BEING A GOOD CHRISTIAN MEANS... HE IS A FRAUD.

— (b) (6)

I am Catholic and Barr is just wrong. It is not the role of Government to tell people how to worship nor is it their role to tell someone their religion disqualifies them from being an American.

— (b) (6)

He's part of the Christian Taliban and bears no resemblance to anyone following the teachings of Christ.

— (b) (6)

One would think that a study of the law would give a person the widest scope possible on the upholding of the law. Barr's myopia comes from a persistent lie told among evangelicals, namely, that the Founders were Christian. They were not; they were Deists.

— (b) (6)

The Spanish Inquisition was all Catholic, been there, done that. The foundation of Jesus' teaching: Love. If Maslow's hierarchy of needs was understood and implemented for the good of mankind, instead of the oppression of the masses, maybe humanity would have use of the frontal lobes God gave us and have the capacity to think beyond entrained reactive behaviors.

— (b) (6)

William Barr, are you totally ignorant or just plain evil? Judeo/Christian values are superior? My arse! You need to do a bit of multi faith theological studying if that's what you think... Moron.

— (b) (6)

I believe Trump is the anti-christ. As it says in Revelations: When the antichrist rises to power, the lamb (the U.S.) will turn into the lion (U.S. under Trump's rule). William Barr is the Attorney General, the top law enforcement official in the United States. If he becomes partisan and prejudiced, then there is no more rule of law in the United States. AG William Barr is not merely partisan, he is mentally ill. And he is extremely dangerous. He is spouting language last heard from the Nazis in Germany. He should be removed from his office with prejudice.

— (b) (6)

Neither Christianity nor Judaism is required for or guarantees a good person.

— (b) (6)

The first amendment of the Constitution states that the U.S. may not establish any religion. This would include Christianity or "Judeo-Christianity", whatever that is. His statement, delivered in a speech given as the U.S.A.G., that law must be based on Christianity violated his oath to defend the Constitution. Impeach him

— (b) (6)

C'mon, we're all God's children.

— (b) (6)

I love all my neighbors, as Jesus directed me to do.

— (b) (6)

This is blatant evidence of how far these degenerates will go to promote their fascist ideas disguised as religion dogma!!! What's even more frightening that there are enough mindless people who actually believe their nonsense!!

— (b) (6)

As a Christian, I am dismayed by Barr's attack on the wall separating church and state. Not only does it threaten American values of equal justice for all; government promotion of a particular religion infects and sullies the very religion it claims to serve.

— (b) (6)

Barr' conduct, in general, and this speech, in particular, are proof that he is unfit to serve as Attorney General. He must be removed.

— (b) (6)

Christianity does not year down other religions. Christ reached out to all people - did not year down others or blame others for problems like Barr did. It was a stain against Christan teachings and against our country's freedom of religion.

— (b) (6)
William Barr is a threat to our democracy.

— (b) (6)
Given the Trump administration's blatant immorality and self-dealing, this is doubly hypocritical. This is an insult to good Christians and good people, insisting that making money at all costs and racist behavior is what are "proper" Christian values.

— (b) (6)
Barr and Trump give Christianity a bad name.

— (b) (6)
I am appalled that Barr gave such a speech. Didn't realize this was a Christian only nation.

(b) (6)
File it yesterday!

— (b) (6)
Separation of Church & State!!

— (b) (6)
The United States is for people of all religions and no religion.

— (b) (6)
People like William Barr are the reason for all those problems he mentions. He aligns himself with the likes of a Donald Trump, and he has the nerve to lecture people on morality! What a sick joke: Perhaps he should reacquaint himself with the Ten Commandments, especially the commandants regarding lying and bearing false witness; throw in adultery and several others with regard to his mentor Donald Trump who thinks he is greater than God.

— (b) (6)
I am a devout Christian, and I try to live my life in ways that honor my Lord. This so-called "Christianity" that 45 and his administration are claiming is not Christianity at all. In fact, it denies everything that Jesus Christ taught and lived out. They have twisted it into something that is vile, hateful, and deadly. I believe that they will all be judged for this one day by God, but until then, it is up to us, both believers and nonbelievers, to refuse to allow this abomination to continue to be used as a way for 45 to commit and hide his criminal behavior.

— (b) (6)
American living in Britain. Christian who believes in religious freedom best served by seperation of church and state .

— (b) (6)
Yeah! and is it Christian to separate families and incarcerate children. He and his boss use religion; they do not practice it!

— (b) (6)
They have forgotten about the constitution says religion should not influence Gov decisions

— (b) (6)
TRUE Christians don't stereotype or blame others, in accordance with "Love thy neighbor as thyself."

— (b) (6)
Barr isn't the Attorney General. He is Trump's personal Lawyer!

All of you fanatical Christians, seem to be seriously lacking ethics and morals. Perhaps you should look in the mirror. The opioid crisis and gun violence are due to greed. Many of the mass killers have quoted Trump and far right ideologies. Freedom of religion, is freedom to worship in the religion of your choice. The founders were wise to keep religion out of government.

— (b) (6)
This type of talk turns people AWAY from churches. We are losing members every day due to this kind of perspective presented from a government post, not a church. Enough!

— (b) (6)
Freedom of religion means Freedom FROM religion. Government -- and govt officials -- must NOT give even the appearance of imposing their religious beliefs ON ENFORCEMENT OF THE LAW. #SeparationOfChurchAndState #FFRF

— (b) (6)
@AmericansUnited, @FFRF @ISNAhq, @CAIRNational @AmericanAtheist @SecularDotOrg, @SecularStudents @RDFRS @NCJW, @AJWS, @AnneFrankCenter @SPLCenter, ACLU @Hatewatch, @StopHateProj, @ADL

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(b) (6)
RESIGN

— (b) (6)
Works for Mien Kampf Trump speaks volumes! Snakes of same color always stick together!

— (b) (6),,
I am a Christian, an attorney and the daughter of an attorney who taught me from an early age to honor the constitution, and I am appalled. Glad my father didn't live to see this day.

— (b) (6)
Barr is a piece of garbage...

— (b) (6)
The way Barr behaves you would think he was an atheist!

— (b) (6)
Our Nation is not and must not become a theocracy. Barr's comments have no place in government.

— (b) (6)

Ayatollah Barr is a disgrace. America's government was built on the tenet of Separation of Church and State.

— (b) (6)
Mr. Barr, would Jesus have made a speech like this????

— (b) (6)
Appalling!

— (b) (6),,
(b) (6)@hotmail.com

— (b) (6)
The 'religious right' has completely corrupted the message of Jesus.

— (b) (6)
This is not supporting and defending the Constitution.

— (b) (6)
Separation of Church and State ?

— (b) (6)
We do not need religious extremism or a theocracy. No USA Taliban or ISIS!

— (b) (6)
So much for the separation of church and state as embodied in the constitution.

— (b) (6),,
No wonder young Americans are leaving Barr's Christianity by the millions! Barr and the other bigots seem never to have read Micah 6:8, "All that is required of you, humanity, is to do justice, love mercy, and walk humbly with your God." Micah doesn't define God--just "YOUR" God, the guide meaningful to the truly moral life he summed up, which is taught by all great religious faiths and humanist ethics.

— (b) (6)
Separation of church and state, PLEASE!

— (b) (6)
What a religious duffus!!!....

— (b) (6)
Morality is a human value.

— (b) (6)
The 35-40% will never change, the true supporters of the Third Reich never repented. Don't try to reach them, don't turn your cheek toward them.

— (b) (6)
Up yours, Barr Barr!

— (b) (6)
As retired Chaplain in federal government after 31 years these remarks would have been violation of code of conduct!

— (b) (6)
This is the United States of America, not the Christian States of America. If you want to live in a theocracy, move to Iran.

This nation was founded by Deists, not even fully the sense of being Christian. So, it is not a Christian nation. Nationalism, even without the attempt at Christian is still an awfully destructive way to go. He could have spoken truth on religious liberty, but like his boss, knows not how to be truthful.

— (b) (6)
What kind of kool aid are these guys drinking? How do sound people get brainwashed?

— (b) (6)
Entirely inappropriate and toxic, exactly what I'd expect from one of Trump's close associates and enablers. Barr is patently unfit for his office!

— (b) (6)
Toxic, hurtful, completely un-American. Nothing Christian about his words.

— (b) (6)
Obviously Mr. Barr is very narrow-minded. It's time he was shown how incorrect he is.

— (b) (6)
Hey, Mr. Barr, in case you're interested, Jesus wasn't a nationalist.

— (b) (6)
Barr needs to be impeached.... he's supposed to work for Americans, ALL Americans. donald tRump is not his boss, WE are! Get this sexist, bigoted, ignorant criminal OUT!

— (b) (6)
He's an ideological cluster bomb, cultish and thoroughly corrupt.

— (b) (6)
Barr is a partisan fanatic and a disgrace! He is the worst AG the country has ever had.

— (b) (6)
Just shut up and go away, Barr.

— (b) (6)
This is more proof how religion can be twisted into a dangerous weapon by corrupt governments.

— (b) (6)
Attorney General Barr, why don't you practice telling the truth, which is part of the Judeo-Christian ethic you promote. Given your behavior, I consider your promotion of the Judeo-Christian ethic to be a sham.

— (b) (6)
American religious liberty must NOT be limited by our elected or appointed leaders, or by individual Americans!

— (b) (6)
The (b) (6)

— (b) (6)
Barr has influences US politics in significant and harmful ways for decades .

— (b) (6)
So, Barr violated his oath of office? He's a Trump appointee, what do you expect? He's just as duplicitous as the rest.

— (b) (6)

There are no "good" fascists in the name of Christ

— (b) (6)
WWJD?

— (b) (6)
Religious Fundamentalism isn't the basis of Christian morality. It is a bane to a free society that correctly separates Church and State. There are agnostics, atheists and secular humanists that have a greater sense of humanism and morality than many so-called self-righteous Christians.

— (b) (6),
His behavior is completely over the line. Separation of church and state protects all of us. (b) (6)

— (b) (6)
Barr appears almost as crazy as Trump, but no one can doubt that these two clowns are working up to capacity.

— (b) (6)
Barr you are a disgrace and no Christian.

— (b) (6)
"Have te frons in hominibus non est: Domine, in uix tandem iuuentus scio qui sis Sanctus nihil pudor?"

— (b) (6)
Maybe we could cast an eye of suspicion on Reagan and Republicans for dismantling a community mental health system that was better than imprisoning those with brain diseases.

(b) (6)
Barr has earned the privilege to be impeached as well.

— (b) (6)
Barr represents the extremist worst of Christian nationalists. He is toxic to this country and the Constitution. He must be removed and tried for his failure to uphold his Oath.

— (b) (6)
Hate mongering is never Christian.

— (b) (6)
I am a Jew and find your Christian comments despicable!!!

— (b) (6)
Organized religion has through the years subverted Christianity with real witch hunts (Salem trials), evangelical radicalism, and general hate.

— (b) (6)
Jesus teaches us to love one another, not judge, not hate, not discriminate. Beware of false prophets.

— (b) (6)
Where is the separation of church and state? Our religion should stay in our churches and not in politics.

— (b) (6)
It's time for impeachment and a clean sweep of this administration

(b) (6)

He is a partisan hack who has gleefully gone along with tRump's impeachable schemes. He needs to be impeached and thrown in prison with the rest of them.

— (b) (6)

Wm. Barr is no expert on much of anything, it seems - not even the law, or he would not have condensed the Mueller Report as he did. Certainly he is no expert on Christianity or morals - he apparently believes atheists and agnostics and progressives and humanists have no moral center: look who's talking! I do not claim expertise in matters of morals either. I did however server as a Lutheran missionary in China for seven years, after completing hefty theological training. What I say is that our country needs all the kindly, caring, compassionate people she can muster - from whatever belief system they ascribe to - Muslim, Hindu, Jew, Buddhist, atheist - ANYbody who can show caring for people all over the globe. Not only America. Jesus was not a proponent of nationalism.

— (b) (6)

Christian nationalism is fanatical, just like ISIL and al Qaida are fanatical.

— (b) (6)

Barr must be held accountable. This cannot continue.

— (b) (6)

Separation of church and state...it's in the Constitution, Barr.

— (b) (6)

WE MUST SPEAK OUT AGAINST SUCH A SPEECH!!!!!!!!!!!!!!!

— (b) (6)

Judeo-Christian moral standards are just ONE of the moral standards for human conduct; there are others, also.

— (b) (6)

Four thousand holes in Blackburn, Lancashire...Ten thousand in the minds of those who use belief as a cudgel

— (b) (6)

The republican religion is anathema to morality.

— (b) (6)

Ugh

— (b) (6)

The Constitution says that we have religious freedom. That's why the Pilgrims came here. Did I miss something? Did it say 'no Muslims'? I must have missed something.

— (b) (6)

William Barr is just typical Trump-style corruption on two legs.

— (b) (6)

name who told Trump to choose Barr??

— (b) (6)

He's a perfect example of what's wrong with the Trump administration and Trump doesn't even grasp the implications in his naivete about religion.

— (b) (6)

Live your religion for you not everybody holds the same beliefs as you so you are not the know it all as you see yourself as being. Cut the arrogant crap!

— (b) (6)

ENOUGH of this CORRUPT And IMMORAL man And Administration!!!!

— (b) (6)
I'm a Christian. William Barr does NOT SPEAK FOR ME!

— (b) (6)
Barr is a danger to our democracy and a satan worshipper.

— (b) (6)
"Religious liberty" is too often used as a way to impose one's own religious beliefs on other people. Each person should be allowed to determine his/her belief system without intervention from the government, particularly the Attorney General.

— (b) (6)
Although I am a devout Presbyterian I feel that Barr's statement that religion is the ONLY way that Americans can have morals and values is perhaps the stupidest thing uttered by a politician since Joseph McCarthy. The U.S. Constitution is plain. There is never to be the establishment of a state religion. Barry should be disbarred for failure or refusal to defend and follow our Constitution, which IS the Attorney General's job description.

— (b) (6)
Too many people use religion to further their biases. We must stop this NOW!!!

— (b) (6)
Simple rule: If you have a business that serves the public, you serve all of the public regardless of your personal beliefs.

— (b) (6)
Mr. Barr, This is not what the United States of America is.

— (b) (6)
If Barr's, Pence's and Trump's (and many others in administration) are examples of Christian values, I'll take atheists' values any time!

— (b) (6)
Separation of church and state is the cornerstone of our democracy.

— (b) (6)
Mr. Barr, who are you, of all people, fit to speak of morality? and are you unaware you serve a diverse people in an officially secular state?

— (b) (6)
Funny. He works for the anti-Christ but speaks of Judeo-Christian moral standards. Seriously? What a joke.

— (b) (6)
Christianity thrives on love, not hate. When will (b) (6) recognize this?

— (b) (6)
Hello (b) (6)!

— (b) (6)
Barr needs to be impeached also, he is just Trump's fix-it guy now except he is the AG. Disgrace!!!

— (b) (6)
While I agree that Christianity is positive, that does not mean anyone, and especially not the AG, should say things that disparage other religions.

More wars and their killings have been made in the name of "religion" than any other reason--and by s0-called Christians. I guess the 5th commandment only applies to not killing white people.

— (b) (6)
Of course, we are talking about a man who was hired to obstruct justice.

— (b) (6)
When good Christians see what people like Barr are trying to do, they feel defiled. And it's no surprise that many of them are leaving the organized Church. It is time we stand for Christ's values, not those of the Pharisees

— (b) (6)
Vengeful remarks like Barr's twist Jesus's values of love and inclusion beyond recognition and give Christianity a bad name. They also violate his Constitutional duty to guarantee justice to all Americans, not just Judeo-Christians.

— (b) (6)
Barr is Trump's lawyer, what do you expect from a traitor?

— (b) (6)
I am a lifelong Christian, and I abhor statements like this. Faith is a personal thing, and it's not the government's representatives' job to involve itself in its citizens' personal beliefs.

— (b) (6)
Barr exemplifies the darkness of our times, twisting truth and logic in service of what?

— (b) (6)
Barr is not acting as the protector for all Americans. Instead, he has weaponized religion as a personal attorney for Trump.

— (b) (6)
Separation of Church & State...set forth by our founding fathers. Christian Nationalism is an affront to everything Jesus stood for. The so-called "Christians" in the current administration have not demonstrated one iota of the values Jesus espoused.

— (b) (6)
When I was 15 years old I did not want to belong to any single denomination, because I knew in my bones that each had its own particular blind spot . . . just as each has its own particular saving grace. I am not "Mormon" anymore, but I learned the meaning of creating a good home and being a good neighbor. I am not "Catholic" anymore, but I learned the virtue of selflessness, perseverance, and generosity from this belief system. The way I figured, from a very young age, if certain religious beliefs truly hold water, they make us BETTER people, not WORSE. Are you listening, William Barr?

— (b) (6)
"Separation of Church & State?" HA! Maybe it is indeed long past time when we should have taxed religion.

— (b) (6)
We are not a Christian nation. We are a nation that includes all religions that embrace ht the law of loving your neighbor and working with those who don't.

— (b) (6)
Can't believe a follower of Jesus would make such unChristian comments. Boy will Mr Barr be surprised when he sees who's waiting for him when he finally gets there!

— (b) (6)
The American Christian Theocratic Movement and its agents like William Barr must be censured lest we lose all our constitutional freedoms and descend into a Fascist Christian society.

I'm a progressive because I am a Christian. Barr is a regressive, of unknown religion.

— (b) (6)
Barr seems to have sold his soul to DJT. He is so morally compromised, he has to right to make any claims about standards whatsoever. He needs to be OUT.

— (b) (6)
This is NOT what Jesus taught!

— (b) (6)
This guy needs to be removed - forthwith!

— (b) (6)
I've always been mystified by conservatives' whining about lost religious liberty. As a Catholic, I have never been denied the right to attend Mass, to receive the sacraments or to identify myself as such. I can also proselytize! What conservatives really want is to require others to live by their chosen conservative lifestyle—which is not the same as religious liberty.

— (b) (6)
Barr is unfit for office, as evidenced by his continued support of the tyrant, Trump.

— (b) (6)
Norte Dame is to blame for this egregious, vitriolic Barr speech. They invited him and also Paul Ryan as a lecturer. As an individual raised Catholic but dropped out because of the church's disconnect with Christianity. Shame on Notre Dame and their hypocritical leadership. This type of thing will bring down the Catholic Church.

— (b) (6)
Don't the MORON Trump CULT KNOW HISTORY? The Trump regime is EXACTLY like the brainwashing FASCISM of HITLER!! This is an EVIL that America sacrificed over a 1/2 MILLION Americans to fight. We will NOT stand by while these evil people resurrect FASCISM! The Republican Trump KLAN are NOT Christians. They are PHONY "Christians" wrapped in religion to instill their evil agenda in our culture and society! JUST SAY NO.

— (b) (6)
sadly this official of the current administration is ignorant and full of ill will

— (b) (6)
FYI, There is a separation of church and state for reason .

— (b) (6)
Barr is VIOLATING the U.S. Constitution's separation of Church and State. Barr is VIOLATING America's best tradition of fairness. Investigate and impeach Barr.

— (b) (6)
Bring down these horrible horrible people who have taken over our government--Trump, Barr, Pompeo and that idiot Giuliani.

— (b) (6)
Barr needs to go NOW!

— (b) (6)
Not to mention his obstruction of Congress and his cover-up artistry and political bias in favor of the most unethical and damaging administration in US history. As someone who was raised Catholic, I am appalled.

— (b) (6)

Doesn't sound very Christian to me.

— (b) (6)
As a Catholic I am embarrassed that Notre Dame sponsored such an inappropriate, bigoted speech!

— (b) (6)
It's a shame that the top law guy doesn't understand separation of church and state.

— (b) (6)
As a Christian I OPPOSE the nazi republican effort to make the word "Christian" mean "one who does EVIL and is proud of it"

— (b) (6)
I strongly support Faithful America's petition to the Inspector General and the Office of Professional Responsibility to investigate William Barr's speech in violation of our guarantee to religions freedom. I am an ordained member of the PC(USA).

— (b) (6)
As a practicing Catholic who knows many alumni of Notre Dame, I am appalled at Barr's remarks. Our values of inclusion and love should not be used against others.

— (b) (6)
Bless his heart. The US government does not need a wrong headed true believer leading our Justice department.

— (b) (6)
I guess Barr doesn't believe in freedom of and from religion.

— (b) (6)
Barr presented a false, twisted, and toxic Christianity that bears no resemblance to the real thing. That's terrible enough, but he is also violating our constitution on the separation of church and state. He needs his own investigation and impeachment trial!

— (b) (6)
If this speech by AG Barr is "Christian" then we are doomed. It is road map for dictatorship, and I do not believe faithful to the Gospel I know.

— (b) (6)
William Barr is a disgrace.

— (b) (6)
This man should NOT be the US Attorney General!

— (b) (6)
Barr's speech ethically was contrary to his sworn oath. I demand it immediately be removed from the DOJ website. Contrary to what Barr would have you believe, not all the country's problems are due to people who do not follow what he deems to be Judeo-Christian values. Some of us who do not believe he represents Christianity believe in following the teachings of Jesus, not the teachings of anti-lgbtq and anti-choice zealots.

— (b) (6)
I am a proud member of the religious Left and I Vote

— (b) (6)
The Dominionist Christian Cult is a political organization hiding behind religion. If not stopped it will destroy America.

— (b) (6)

Um, Lets ask ourselves, what would Jesus do?

— (b) (6)

This is not 1984. Religious freedom does not mean theocratic dictatorship with freedom only for the "theos". Religious freedom means freedom for all religions.

— (b) (6)

When fascism comes to America, it will be wrapped in a flag & carrying a cross.

— (b) (6)

This administration is out of control. Remember separation of church and state?

— (b) (6)

Our country was established the the intent to honor Christian values AND to keep them separate from governing. We must protect our freedom of religion.

— (b) (6)

Our founding fathers were opposed to a national religion. Others besides the Christian/Judeo denominations also teach good and loving values. Even without any religion, good values can and are taught.

— (b) (6)

Allowing Barr's statements to go unchallenged is a shirking of our Constitution! Investigate- independently-and then prosecute!

— (b) (6)

I do not wish to be on a mailing list.

— (b) (6)

This is not toxic Christian nationalism. It is toxic nationalism. With his harmfully ignorant views he should be dis-Barred from representing the United States.

— (b) (6)

Oh really, Religion is the answer?? How many priests were involved in abuse scandals? Barr is wrong by what he says.

— (b) (6)

Barr is no Christian. He would deny Jesus since Jesus wasn't a white man who spoke English.

— (b) (6)

William Barr is wrong! His brand of Christianity ignores its simple and basic tenant, to love God and others. His behavior simply does indicate he understands this. Besides his job is secular! What is he doing?

— (b) (6)

Barr, this is your and the corporations fault. All of you who put money and power over people. You and most government officials can be described best as psychopaths

— (b) (6)

As an attorney I find William Barr's comments appalling. He is clearly not acting in a non-biased manner in anything he does as Attorney General of the United States...the highest law enforcement position in the nation.

— (b) (6)

An ethically deficient lawyer, and a worse theologian.

— (b) (6)

Some of the best people I know are agnostics and atheists. Most of them were raised Catholic and didn't like the uncharitable behavior of leaders and teachers. I kept the faith, bolstered by the family saying, "The Catholic Church has to be divine. Look at the da_n fools that run it!"

— (b) (6)
AG Barr's comments were so antichristian it's unbelievable. That is not how Jesus taught us to live.

— (b) (6)
William Barr is NOT a True Christian.

— (b) (6)
Filing an ethics complaint is a good first start. He needs to be removed from that office. He's a disgrace to the Constitution and the rule of law!

— (b) (6)
I'm a devoted Catholic, and horrified that Notre Dame would allow such a speech. As the highest legal officer in the land, Atty Gen Barr certainly violated his duty. For this and many other reasons, he should be investigated and/or should resign.

— (b) (6)
Barr needs to be asked how can a supposed "Christian" condone the outright sins, according to Jesus, of his boss.

— (b) (6)
The United States is meant to be home to all who come here; it is meant to be a refuge. But the U.S. Attorney General has basically stated that he will only protect the religious freedom of Judeo-Christians. As U.S. Attorney General, that is NOT his decision to make; nor is it representative of what this country is meant to stand for. As a Christian and a citizen of this country, I ask that you look into whether or not the U.S. Attorney General is actually aware of his constitutional responsibilities and restraints; of his duty to all who come to this country. If not, perhaps he needs to be reminded and/or disbarred.

— (b) (6)
Retired Chaplain, Unitarian Universalist Fellowship of Southern Maryland

— (b) (6)
no attorney general has the constitutional right to use his position to advertise his personal mythology. I believe t a constitutional violation and the reason he should be censured or removed from office

— (b) (6)
No longer a check and balance. Barr needs to go.

— (b) (6)
As a representative of the United States Government, William Barr is guilty of violating the Constitutional principal of separation of church and state.

— (b) (6)
I will shortly be 90 years old, and have been a Christian most of those 90 years. I have never been persecuted nor had my civil rights violated because of my religion. Shame on William Barr!

— (b) (6)
No way can we trust the DOJ with this guy leading it. DOJ is becoming a criminal organization under Barr.

— (b) (6)
This AG is a morally bankrupt politician with the most evil nature. Today's so- called christians do not spread the love of our creator by the lies and hate they espouse.

— (b) (6)

As Americans, we call on the Inspector General and the Office of Professional Responsibility to investigate the Attorney General for Barr's unconstitutional speech violated his duty to guarantee religious freedom.

— (b) (6)

While I am very active in my Episcopal Church, I strongly support the Constitution of the United States. No religion at all should be promoted by any agency of the United States government including the US State Department.

— (b) (6)

The vileness the so called Christians like William Barr and those like him spew in the name of Jesus Christ is not the message of love that Christ actually taught.

— (b) (6)

Jesus would not recognize nationalist bigots as his disciples.

— (b) (6)

Barr is covering up Trump's crimes and is spewing hate speech like his boss, while calling it "Christian values". He is as corrupt as Trump and equally unfit for public office - as well as unworthy of being a mouthpiece for true Christians. At minimum, he should be censured. Preferably, he should also be impeached along with our Liar-In-Chief.

— (b) (6)

I'm sick of discriminatory remarks and narrow minded views. The Lord loves all and forgives all. Quit your narrow minded prospective?

— (b) (6)

Self-impeach!

— (b) (6)

We are ALL God's children... Shame on you, Mr. Barr...

— (b) (6)

Barr and Pence are both examples of self-righteousness and put an ugly face on Christianity.

— (b) (6)

Disgusting subhuman man.

— (b) (6)

Truly a frightening prospect to have the top law officer professing religious supremacy

— (b) (6)

Morality is, at the very least, the effort to guide one's conduct by reason—that is, to do what there are the best reasons for doing—while giving equal weight to the interests of each individual affected by one's decision. "The Elements of Moral Philosophy" by James Rachels

— (b) (6)

I'm a lifelong Catholic, and I find AG Barr's opinions on religion abhorrent. Some of the best people I know don't practice a religion. And as we've seen from so many hypocrites, they may claim to be a Christian, but they sure don't act like one.

— (b) (6)

Notre Dame .. how could this happen in your law school. As Catholics we've looked up to you. Is this who you are now... I hope not.

— (b) (6)

Not Christian. Ethical Atheist. Trump administration: immoral!

— (b) (6)

I was raised a Southern Baptist. I was NEVER taught hate, racism, or any bigotry. People we didn't agree with had a right to their opinion. People who didn't think the same had that right. The "LINE" that was drawn was on Evil. When someone was doing Evil that was hurting others, that should be objected to and stopped by decent people. DECENT people now need to stand up and say "NO MORE!" This is a "NO MORE" moment.

— (b) (6)

"Where have all the critical thinkers gone?" Help us...

— (b) (6)

The U.S. Constitution says that America shall make no establishment of religion. This speech sounded like a representative of a branch of Christianity saying that there needs to be an establishment of religion. For those of us who have served and bled for this country, and are not religious, these kinds of statements are not representative of the United States of America for which we have worked, served and bled.

— (b) (6)

We are so glad that you are dealing with this horrible example of Trumps yes men!

— (b) (6)

Tribal ethics violate the golden rule upon which Judeo-Christian morals are based!

— (b) (6)

Mr. Barr has added toxic Christian Nationalism to the list of things that are antithetical to what our nation has stood for, for almost 250 years! He must be brought to pay for his abuse of his office, as United States Attorney General!

— (b) (6)

This man needs to be removed as A.G.

— (b) (6)

Trump only attacks the poor, the sick and the weak. He is the antithesis of Christian values. He attracts the cruel, inhumane people to do his dirty work. Barr should be run out of town for every vile thing he is doing in trump's name.

— (b) (6)

This..... :(

— (b) (6)

As a lifelong Christian who is nearing age 70, I have always valued the separation of church and state because that principle actually protects people from having someone else's idea of religion forced upon them. The Attorney General's speech did not represent my Christian values, and it also revealed that the Attorney General disregards the First Amendment to the Constitution. He should be sanctioned.

— (b) (6)

Barr toxic on a number of levels.. his motives are clear, however.

— (b) (6)

Toxic, sheer bingo AND hypocritical! Appalling.

— (b) (6)

Blessed are the peacemakers.

— (b) (6)

Hypocrisy is like a rotten fish, it starts at the head.

— (b) (6)

Barr needs to be impeached as well.

— (b) (6)

Mr. Barr seems to have ulterior motives for serving as AG. He is supposed to serve ALL citizens, not just a select few and uphold the Constitution of the United States and laws of this nation. I believe he has greatly compromised the integrity of this position on several fronts and does not do the office of AG proper justice, which the American people expect from their AG's. He needs to resign.

— (b) (6)

Barr's speech is completely out of touch with our diverse country. Shame on him, again. These type speeches sound like relics from Hitler's old speeches...leaving out the Jews, of course. This is one big ethics violation...

— (b) (6)

our country was founded on religious freedom -- and that means freedom for all of us.

— (b) (6)

Let us remember how religion impacted the lives of medieval people. It was not a pretty picture. Let us remember why the pilgrims left England. Let us remember that the Founders specifically refused to have a state religion. They knew how destructive that would be.

— (b) (6)

Barr's speech was offensive to any true Christian. He is violating his oath of office.

— (b) (6)

When is someone going to do the right thing and impeach William Barr?

— (b) (6)

I'm embarrassed that this man calls himself a Christian

— (b) (6)

Lock him up!

— (b) (6)

Unfit for any government post, especially attorney general!

— (b) (6)

Barr is a fake Christian. One who claims to do things in the name of Christ but is actually doing the devil's work.

— (b) (6)

They'd burn witches - and books - if they could get away with it.

— (b) (6)

This person is absolutely revolting in his nastiness and twisting of God's word. Like his boss, he is a true embarrassment to true Christians. His form of hatred is truly evil and he must be held accountable.

— (b) (6)

Barr should be removed and disbarred.

— (b) (6)

You will tell them by their fruits.

— (b) (6)

I have accepted the fact that William Barr represents and is loyal to only Trump but when did he become the spokesperson for advocating only Judeo-Christian moral standards rather than the law in his speech on the DOJ website? Attorney General William P. Barr Delivers Remarks to the Law School and the de Nicola Center for Ethics and Culture at the University of Notre Dame South Bend, IN ~ Friday, October 11, 2019 Remarks as prepared for delivery What is next? Sincerely concerned about democracy in the United States of America (b) (6), CPA, CMA

(b) (6)
Christianity is NOT PERMITTED to be established as our state religion. None are.

— (b) (6)
Trumpism is TOXIC to our Constitutional Republic and Democracy the world over. As a Christian, I'm appalled and ashamed of Trump stooges' statements made in the name of the USA. IMPEACH ALL OF THESE SYCOPHANTS, then we can begin to restore Truth and Justice as The American Way!!!

— (b) (6)
Thank you.

— (b) (6)
Mr Barr, who lives his political life based on the cruelty of radical right wing religious ideology, needs to be removed from his office. And then justice demands that he be disbarred, and forbidden from practicing law.

— (b) (6)
This man has no business being in any court or in charge of any law enforcement agency, let alone the highest in the nation. All of his actions are toxic.

— (b) (6)
VERILY HE SHALL RECEIVE HIS REWARD!

— (b) (6)
I wouldn't classify the religion practiced by people like Barr as Christian. They certainly pay no attention to the teachings of Jesus!

— (b) (6)
As a Christian, I believe all people regardless of nationality, religion, race or other labels we use to label, often for the purpose of deviding people are my neighbor and children of God

— (b) (6)
I am appalled and wholeheartedly reject the Attorney General's attack of my secular and non Judeo-Christian friends, that they are somehow the cause of all our problems. Yet, my secular friends live more closely to the teachings of Jesus of Nazareth and the callings of the Holy Spirit than some self-proclaimed Christians who I know or read about, namely the Attorney General and the Vice President. People who follow Jesus and the Holy Spirit do NOT condemn others, they left everyone up.

— (b) (6)
Blaming atheists and progressives solely for the negative things in society is WRONG!

— (b) (6)
Barr misinterprets and abuses every tenet of American Democracy. His remarks are sickening - an outrage.

— (b) (6)
Barr knows NOTHING of God's values. If he did, he'd not be part of the most immoral administration in our history.

— (b) (6)

The A.G. of this country should be familiar with our Constitution. There is a little clause in there about separation of church and state.

— (b) (6)
Barr's not worth a comment...

— (b) (6)
As an ordain minister I have "preached" the Gospel of Christ in Europe, Africa, and Asia. The basis for Christ's ministry is that All people are of great worth in the eyes of God, (and we are invited to see also this way), and that All people have gifts. Jesus included everyone, but cautioned us to be aware of those who have their own selfish "gospel." Yes,, as you have so demonstrated, Mr. Barr, we ALL are responsible for our choices. Leet's hope we look through the lens of Love for this is the Greatest commandment.

— (b) (6)
Barr does not represent true Christian values! How he calls himself a Christian is beyond me! Somebody remind this ignorant fool that he swore an oath to the Constitution, not the Bible!

— (b) (6)
We do have many other than Jews and Christians in this country. Our strength comes from acknowledging and celebrating all of us.

—Technically, A Writer (b) (6)
As an ordained graduate Seminarian, I am fully repulsed by this type of activity. Separation of Church and State has been the basis of our Republic since its beginning. If we are to preserve our democratic Republic, we MUST keep it that way. We are NOT a theocracy; nor should we even consider that. I doubt that Barr is even a man of Faith. He is doing this to gin up favor among Trump's base. "Beware the false prophets." "Beware the hypocrites."

— (b) (6)
Barr is the penultimate personification of what Jesus meant by a wolf in sheep's clothing.

— (b) (6)
Barr ia a insane as Trump. They have no idea what the Constitution says and they gleefully violate the laws of this country, and dare people to stop them.

— (b) (6)
We must realize that the domionists main focus is to establish a theocracy in the United States. The are following the Seven Mountain Mandate!

— (b) (6)
Just more anti-Christ vomit from a Hellbound soul...

— (b) (6)
As someone who comes out of the Judeo-Christian faith, who cherishes friends from other faith communities, I am a disciple of Jesus Christ whose message and life were inclusive not exclusive. That included women, slave or free, Jew or gentile, male and female. Love knows no bounds. That is the nature of god he exemplified.

— (b) (6)
My husband is a Theology PhD (ND 2010) who is now a law student, but not at Notre Dame this time. We both reject the Christian nationalism of this administration and the enabling of evil by people like Barr.

— (b) (6)
Barr is a Liar and totally corrupt. He is one if the poorest examples of an Attorney General and a Christian we have had in that office. He must be charged with dereliction of duty.

If Mr. Barr's speech is typical of Christianity, we want nothing to do with it. How's that for a backlash?

— (b) (6)
Barr is not speaking nor acting like a Christian. His brand of 'Christianity' is vile, hateful and corrupt. We must all stand up against him and those who are using Jesus' name in vain.

— (b) (6)
AG Barr's speech at Notre Dame Law School was an expression of his own personal religious beliefs, but they are not mine, nor do they represent millions of other Americans. We have separation of church and state for a reason. AG Barr needs to remember that and set his own belief system aside.

— (b) (6)
This man is as ignorant as those who believe that the earth is flat. He does not belong in any elected office and Notre Dame should be ashamed of its role in this farce. It no longer claim to be a university.

— (b) (6)
Unfortunate that the AG does not understand that religious freedom is not just for conservative Evangelical Christians, who think God is a heterosexual white male.

— (b) (6)
LYING CORRUPT AG BARR MUST BE IMPEACHED

— (b) (6)
Oh how these evangelicals are so smug and so wrong about Christianity

— (b) (6)
Your speech was toxic and totally undermining to all Christians, nit just the evangelicals such as you are!

— (b) (6)
I was horrified by this. Our nation's top lawyer doesn't seem to recognize the Constitution's separation of Church and State.

— (b) (6)
The AG is one of many so-called Christians distorting the Gospel and example of Jesus to spread their own hate and division. Voters are aware and vigilant.

— (b) (6)
Barr is as lawless and unconstitutional as his fellow “xtian” trump.

— (b) (6)
#ImpeachTrump

— (b) (6)
William Barr, your speech was exceedingly UNCHRISTIAN! I suggest you read the New Testament and then try to follow Jesus' teachings.

— (b) (6)
USA is not now, and never was, a so-called Christian Nation. Rather, USA is a product of The Enlightenment, via Spinoza and others, through to Jefferson and the Founding Fathers, where the concern and primary emphasis was to remove not only monarchy and aristocracy from government, but also religious authority. In short, the Founders in 1789 did everything they could to emphasize the disparate nature of the U.S., and to keep religion far far away from government. By contrast, the belief of A.G. Barr, and of today's GOP, that there should instead be a close association of religion - and particularly of Christian Fundamentalism - with the public polity of USA is not only very much mistaken, but also detrimental to the health and vibrancy of these United States.

This type of speech is not appropriate for a US attorney general

— (b) (6)
Donald J. Trump is a domestic enemy of the Constitution of the United States of America.

— (b) (6)
Barr is a serial liar and criminal. Another great "Christian"?

— (b) (6)
The conduct and statements of the AG, speaking as such, are in direct violation of the Constitution's separation of church and state. Privately, he can hold & say such remarks, but not as the US Attorney General.

— (b) (6)
Barr needs to be impeached since he is working as Trump's Roy Cohn and has the nerve to talk about Christianity. These people are all hypocrites.

— (b) (6)
Faux-Kristians must ask: "What would Jesus do?"

— (b) (6)
Barr ought to be thrown in jail for life!!

— (b) (6)
Barr's speech spreads hate and bigotry.

— (b) (6)
Separation of church and state! Keep religion out of politics period!

— (b) (6)
You swore an oath to uphold the Constitution, not the bible.

— (b) (6)
Reading Barr's comments was so deeply disappointing. As a Christian, I am disturbed by the divisive content. His approach is the worst possible for our country.

— (b) (6)
Notre Dame University should be ashamed of itself for not immediately castigating Barr for this most un-Christ utterance. This university has lost much of my respect over the years for its support of ultra conservative positions in matters of religion.

— (b) (6)
Is that the speakings that Jesus would have given were he to speak on "religious liberty in America" at Notre Dame Law School. Doctrinaire Religious Zealot, no place for Jesus' words and actions of/for dignity, peace, love, justice, compassion for all. He and all pseudo-Christians, make me sick, embarrassed for gospel valued Christians. (b) (6), former Roman Catholic sister for 15 years.

— (b) (6)
Barr's speech is completely unacceptable in terms of his duties as the Attorney General. I am a Christian, but he has no right to use his position as a government official to promote any religion above another. If he wishes to promote such beliefs, then he needs to resign and do so as a private citizen.

— (b) (6)
Perhaps he considers the allegations of sexual abuse by Priests part of a secularist plot.

So, Attorney General Barr, do you endorse Christianity as the official religion of the United States? It certainly appears that way from examining your speech at Notre Dame. What happened to "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof?" And am I to assume from your speech that only Christians may enjoy the "free exercise" of religion. As for Christians owning the moral high ground, might I remind you that it was Christians who endorsed and maintained a system of slavery in this country for more than two hundred years, followed by more than one hundred years of state-sanctioned segregation of African Americans. And of course, there is the genocide of indigenous people that served the interest of those who claimed Christianity. It is ironic that you see America as only recently morally bankrupt. You turn a very blind eye to the historical violence and intolerance of your so-called Christian nation. But then, that idea has served white America well, at least economically. I fail to see the moral highground you claim in the name of Christianity. The Jesus I worship is a God of infinite compassion who loves and welcomes everyone, just as they are, without exception, including those who are non believers.

— (b) (6)
BAR HAS SHOWN HIMSELF TO DISCRACE THE CONSTITUTION AND THE OFFICE. HE IS A FAKE CHRISTIAN! WE WILL NOT ACCEPT HIS CORRUPT VIEW OF FAITH . HE HAS SLEPT WITH THE DEVIL AND WILL GET THE DEVIL'S DISEASE.

— (b) (6)
I suggest you actually read the New Testament and get to know Jesus Christ and His teachings!

— (b) (6)
This is a blatant attack on the basic constitutional principle of Freedom from And of religion

— (b) (6)
Shameful! How toxic of William Barr to influence young Christian minds like this. He was shameful already when he decided to cower to a dictator instead of working in behalf of the American people.

— (b) (6)
This is not what Christianity has been to me in 80 years as a Christian. Christian Nationalism is a betrayal of Jesus, and inappropriate in a country with no established religion.

— (b) (6)
How dare you, sir, speak so disparagingly of actual religious liberty. If you consider yourself a Christian, you are not under attack for it. You are under attack for being an aggressive Crusader for your own version of whatever your Jesus stood for. Remember the Constitution? Good stuff.

— (b) (6)
William Barr does not represent Christian beliefs. Anyone who does not follow Jesus Christ's Beatitudes and the 10 Commandments, cannot call themselves Christians. As a regular citizen, Mr. Barr could say anything he wants, due to our Constitution and freedom of speech. However, due to his appointment in our federal government, that requires he guarantee justice for ALL Americans; his statements regarding his own odd religious habits are inappropriate and unethical. Please DO SOMETHING.

— (b) (6)
Separation of Church and State is a high value in our Constitution and in my heart and patriotism.

— (b) (6)
Mr Barr claims to be Catholic. However, to be truly Catholic is to abide by the teachings of Jesus. What part of: "Thou shalt not lie" or "Thou shall not bear FALSE WITNESS" , "Thou shall not MURDER" (as in the death penalty) or more importantly "Thou shall not judge our brother" do you not Understand???? This is my commandment "LOVE ONE ANOTHER AS I HAVE LOVED YOU" ~ no exceptions here MR.BARR!

— (b) (6)

Barr must go!

(b) (6)

Regardless of personal beliefs an attorney general is to see that all are treated equally under the law. One does not use the office for these kinds of speeches.

(b) (6)

Mr. Barr claims to be a warrior for Catholic Values, but he supports policies such as vicious attacks on immigrants and refugees, opposition to policies to address climate disruption in any way, and the heightening risk of nuclear war which are profoundly satanic and which go against repeated appeals from Pope Francis.

(b) (6)

His membership in Opus Dei is deeply troubling. It certainly is in line with his so-called Christian nationalism.

(b) (6)

Our nation's founding on principles of liberty and justice for all must be defended. Mr. Barr's conduct is outrageous, and his words are dangerous. They must not stand!

(b) (6)

The First Amendment states it is unconstitutional to declare a state religion. End of story.

(b) (6)

Barr, a despicable man.

(b) (6)

"toxic Christian nationalism" at its worst

(b) (6)

Barr has Opus Dei on Sunday, then sins grievously and breaks our laws

(b) (6)

Why was our country's main law enforcement officer who is now supporting our president in breaking the law invited to speak?

(b) (6)

Agree implicitly. The current climate in America is not one of religious tolerance, but of pseudo-christian bigotry to deny civil & human rights to groups & individuals who do not conform to a rigid, fundamentalist screed. True religious liberty is the right to your own belief w/o forcing anyone else to accept yr.particular bias, & w/a strong separation of church & state.

(b) (6)

I am a retired pastor and I found his speech to be offensive. He must not read the same Bible I read.

(b) (6)

Barr, you're the worst example of either Christian faith or "morality" I've ever seen.

(b) (6)

Our nation's chief law officer ought to know the Constitution, including the first amendment thereto.

(b) (6)

Barr again shows himself unfit for his high office by making it clear he supports only a segment of our population.

(b) (6)

Separation of church & state!

(b) (6)

This man is to lawyer for the citizens of the USA. ALL the citizens of the USA. He should be impeached as he carries out the discriminatory policies of the POTUS.

— (b) (6)

I attend a Christian church but am extremely frustrated with individuals and organizations that use Christianity as a club. This is in opposition to the inclusive principles of Jesus himself and of our founding fathers who attempted to create a nation that respects persons of all faiths and persons of none.

— (b) (6)

The Constitution promises freedom of religion and the U.S. government is obligated to provide protection to all citizens with no discrimination on the basis of religion. There are many, many Americans who are not part of Judeo-Christian religion and our government must treat these citizens the same as those who do subscribe to these religions. This is such a basic truth that I am truly shocked that a high government official would be naive enough to state otherwise in a public speech.

— (b) (6)

For those who do not follow the Judeo-Christian religions, Barr's comments are a slap on the face.

— (b) (6)

As a Catholic, I am shocked at Barr's comments. He is not representative of our current attitude toward other faiths.

— (b) (6)

Jesus would NOT approve of Mr. Barr's behavior!!!!

— (b) (6)

Shame on you. You are a disgrace to Christians and worship nobody other than Donald Trump. You are a disgrace and may God have mercy on your putrid soul.

— (b) (6)

First they came for the immigrants...and I did not speak out because I was born in the US. Then they came for the LGBTQ's...and I did not speak out because I was not LGBTQ. Then they came for the Muslims...and I did not speak out because I was not Muslim. Then they came for the poor...and I did not speak out because I was middle class. Then they came for me... and there was no one left to speak out for me.

— (b) (6)

Be a good watchdog and bite Barr!

— (b) (6)

Shame on your provincial narrow idea of the Divine.

— (b) (6)

I graduated from Notre Dame, and find Barr's comments particularly heinous and completely inappropriate for head of the DOJ.

— (b) (6)

I'm a Catholic, Barr isn't. The guy he works for has zero christian faith or values, is supremely anti-christ-like. Excommunicate this blasphemer, Pope Francis.

— (b) (6)

I've at least read the Bible. These theocratic monsters most probably have not. Put them back under rocks before they burn me at a stake

— (b) (6)

This is when we need to get the facts in their face - This is not nor has it ever been a christian nation - It is a nation where you are free to worship however you want, and to whomever you want - This country was founded on religious freedom - Not on making only certain factions of 1 religion be pushed by them as the "ONE" - there is NO religious test, nor should there ever be - I don't believe in what they do, their beliefs are so very backwards !!!! We need to be forward thinking, not taking us backwards 2 centuries - They also need to understand - The bible was written by MAN

— (b) (6)
Barr does not represent christian values and he should not have been invited to speak at ND, I would not have attended.

— (b) (6)
That speech was one of the most frightening things I've ever heard from a public official. Barr's are the "values" of the Christian Taliban!

— (b) (6)
William Barr is the real danger to our democracy, he and the man he apparently answers to, even if that means acting in ways that are very UN-Christian.

— (b) (6)
One more illustration of the current division within Christianity and which astound me as a Jew.

— (b) (6)
We seem to be on track to achieve a fully theocratic federal government. This was not the intent of the signers of the declaration of independence, and certainly not the framers of the US Constitution. As we are not to be ruled by a king, we are not to be ruled by an invoked deity that states the views of a few.

— (b) (6)
Wretched evil non-human! Ignorant NDU! Tge Constitution! Justice! Equality! Rule of law!

— (b) (6)
Wretched evil non-human! Ignorant NDU! Tge Constitution! Justice! Equality! Rule of law!

— (b) (6)
This personal attorney of #TraitorTrump does not belong in the White House.

— (b) (6)
Barr stands against everything Pope Francis, the leader of the Roman Catholic Church, preaches and stands for.

— (b) (6)
It would seem that self-interest and lack of moral conviction go hand-in-hand to strip people of Christian dignity.

— (b) (6)
This man is bought and paid for by our current president. He is a lap dog nothing more.

— (b) (6)
This is unacceptable under our Constitution's Bill of Rights! This is a bigoted statement. He has a right to his opinion, but such statements as AG are inappropriate and makes one wonder what kind of Justice he promotes.

— (b) (6)
Christians supposedly follow the teachings of Jesus whose very life shouting inclusion. Jesus himself was not a Christian, so for Mr Barr to twist that message is not only un-American and counter to the foundations of this country, but actually anti-Christian.

— (b) (6)

Hard to say, but his words, and actions, are desecration of the words Jesus Christ to which we ought to bow our heads and not shake them in disbelief.

— (b) (6)
HOPEFULLY...ONE DAY INTO THE FUTURE WE WITNESS THIS CRIMINAL GOING BEFORE JUDGES AND SENT OFF TO FEDERAL PRISON...WE'RE WAITING!!

— (b) (6)
As a practicing Christian and Catholic, I totally object to Attorney General Barr's remarks. He is misusing his authority to condemn those who believe differently or not at all, suggesting that they cannot have proper moral and ethical standards. He is wrong.

— (b) (6)
Nationalism of any kind is an UN American activity. But for the AG to go rogue and tout Christian Nationalism violates his sworn oath to uphold the Constitution of this nation. WE, The People of this Nation are better than this! Barr does not speak for us. Nor is this a form of Christianity that Jesus would care for. Who asked that we love our neighbors? What happened to Do unto others as you would have them do unto you? This is twisted stance by the AG is unrecognizable by true Christians as a value. We reject it out of hand.

— (b) (6)
It is shameful that Republicans/conservatives have been able to hide behind Mr. Trump's bigotry and racism to push their own bigoted and racist agendas. Christians who honor the legacy of Christ to love our neighbors as ourselves and that our neighbors are all those we share this planet with, need to step up and keep preaching love for all, loudly, joyfully. This is the only way we'll be able to stop the pseudo-religious insanity that has taken over so many American lives. This takeover has led them toward hatred, discrimination, and allowance of behaviors that are completely against Jesus's words - you know, like putting kids in cages, saying white supremacists are "fine people," and lying to an extent never seen before in American politics. Betrayal of our allies fits here too. (b) (6)

— (b) (6)
This man has violated every oath he has taken. The American Bar Association should disbar him immediately. He sounds racist to me.

— (b) (6)
This is frightening, though not surprising.

— (b) (6)
Where did AG Barr get his theology degree? His remarks are SHAMEFUL! And, worse, they are not congruent with the job of Attorney General of the United States.

— (b) (6)
Barr should not be the Attorney General! This is how the Holocaust began.

— (b) (6)
As Attorney General of the US, with regard to religion, it's your job to uphold our Constitution and ensure the separation of church and state as well as ensuring religious freedom for everyone. Your speech on October 11, 2019 and its posting on the Justice Department website is an example of Christian nationalism which is contrary to our nation's ideals as formulated by the First Amendment of our Constitution. As a citizen and a Christian, it's my job to hold you accountable to your job. I therefore add my name to this petition.

— (b) (6)
No Christian who is a true American would have vomited all over his religion and his country at William Barr did.

— (b) (6)

Barr's comments are disgraceful.

— (b) (6)

Barr is just one of the so-called "Christians" who are more concerned with theological purity than with justice and mercy -- which is the consistent message of the Bible. He is leading us on a path toward a theocracy.

— (b) (6)

Anyone surprised by Barr's comments has never met an Alt-Catholic before.

— (b) (6)

As someone raised and educated in the Roman Catholic faith who has studied many variations of Christianity, Judaism, and many other religions, I am deeply offended that Barr should present his version of politics in a religious disguise. He must be removed as the guardian of American justice, as he is a disgrace to any religion and to this country's most fundamental values.

— (b) (6)

If we go by actually how we treat others, the best "Christians" I know are secular humanists.

— (b) (6)

The AG has confused democracy with theocracy. He is NOT the people's lawyer but simply an ideological hack.

— (b) (6)

Mr. Barr neither knows Christ's teaching nor justice. How very sad that he considers himself a follower of Christ.

— (b) (6)

Taking such toxic Christian nationalism to our young people is an outrage.

— (b) (6)

Barr is deranged. He doesn't know the first thing about Christian values. He's just another pseudo-Christian phony and hypocrite. Jesus would laugh in Barr's face - except that Jesus would be a true Christian and refrain from doing so.

— (b) (6)

He should also be impeached!

— (b) (6)

Moreover, the term Judeo-Christian frequently excludes Jewish Americans in practice. Any call for Judeo-Christian values is often a call for a very specific subset of Christianity. This endorsement of specific faiths is miles away from the religious pluralism required by legislative law, the letter of the Constitution, and the intentions of the Founders of the United States.

— (b) (6)

End this treason

— (b) (6)

His actions are not Christian!

— (b) (6)

Hey Bill, you are aware as Attorney General that there is no state religion am I right??? My way or the highway is not for you to say.

— (b) (6)

How much sicker can the USA get?

— (b) (6), ,

You work for the federal government and should never, ever push any religion on anyone. The last thing in the world that you want to push onto people are values that even Jesus fought against. Call yourself a Christian only if you follow Jesus. Call yourself moral only if you follow God. God created all people. God created all religions. God told man STOP HATE! STOP CREATING RELIGIONS IN MY NAME THAT I NEVER AUTHORIZED! Christianity and Judaism were created by man, not by God & not by Jesus. Follow the 10 Commandments & forget everything else. You are your brother's keeper, like him or not. If you truly believe in God, you must understand that you will have some heavy explaining before God lets you pass into the afterlife. I don't think you're going to be there with the rest of us. God will want you to be punished for a long period for the life that you have lived & the evil that you have preached.

— (b) (6)
This is just another reason that we must remove not just the President but everyone he appointed or manipulated in to positions of power. We are in serious danger as a nation because of the horrible influence of this terrible man and his associates.

— (b) (6)
He has lied to Congress and his misinterpretation was close to illegal and he deserves to be impeached too!

— (b) (6)
I'm signing for all the kind, generous atheists I know.

— (b) (6)
I'm afraid that AG Barr has missed two important points: 1) Jesus welcomed and called sinners to His hear his words of salvation and love. And 2) s/he who is without sin, let his cast the first stone. The latter description doesn't fit Mr. Barr or his actions. He needs to be investigated.

(b) (6)
This atheist spent 48 years as an RN taking care of everyone, no matter their faith, gender or political affiliation. You, Mr Barr don't even begin to get it. You need to fold your tent and go home.

(b) (6)
Tell me, Mr. Barr, are "militant secularists" to blame for all the lies you've told on behalf of Trump?

— (b) (6)
Everyone in this administration is seeking to divide the nation. This is sickening!

— (b) (6)
what a christian crook !!

(b) (6)
This administration is SO CORRUPT!!! We are Nazi America and those who say we aren't, OPEN YOUR EYES!!! I remember before Barr was confirmed, a former federal prosecutor said he believed Barr was an institutionalist and would operate in the norms. NOT!!!! WAKE UP AMERICA! Democracy as we know it is almost gone. I for one have lost hope. Unless Americans take to the streets in the MILLIONS, we are doomed. Hello dictatorship. They don't care about the constitution, the law, anything. They've gotten away with so many crimes already ... who is going to stop it? Pathetic, shameful, disgusting, immoral, UNAMERICAN, UNCHRISTIAN! A joke ... that's what we have become.

— (b) (6)
Mr. Barr betrays his oath of office in using his office to propound his religious views. And he needs to re-examine his own values based on what this administration is doing to human rights. Shameful.

— (b) (6)

William Barr may well be the worst example of "President" Trump's illness. His entire Cabinet is a collection of incompetent, right-wing nut-jobs. Barr's speech only underscores the problem. He should NEVER have been named Attorney General. I am a lifelong Christian -- and I do not agree with ANYTHING Barr said. It's despicable.

— (b) (6)
Just like the racist neo-nazi he represents, Barr is anti-Christian morals and philosophy. Lock him up too.

— (b) (6)
teaching theology at a Catholic and Jesuit university for 40 years, I can tell you that any of my students could identify immediately how Barr's comments disparage and disregard the way in which other historical spiritual traditions (Buddhism, Islam, Hinduism) that inform the consciences of thousands of our fellow Americans deserve our respect and protection.. Barr's vision of "religious liberty" is narrow and toxic.

— (b) (6)
Barr is a violation of the constitution and human rights and humanity in general.

— (b) (6)
The ever shrinking separation of Church and State scares and angers me. And the notion that without adherence to Judeo-Christian standards (as filtered through white nationalists interpretation) a person can't be moral is repugnant.

— (b) (6)
Our very devotion to our Creator should drive us to keep devotion to our oaths of serving ALL our constituents.

— (b) (6)
He is charged with being the attorney general for all the citizens- not the white Judeo/Christians, nor those who conform to his ideology. He must be disclaimed as a racist, or at best, an elitist. America is a land for multiple ethnicities and moral values that include immigrants and agnostics, queers and other religious beliefs.

— (b) (6)
Keep your religious beliefs out of MY politics.

— (b) (6)
This man does not speak for me or my Christian values. Please leave my religion alone and do not politicize it!!

— (b) (6)
Barr is a disgrace and should be removed from office!

— (b) (6)
What would Jesus Do?

— (b) (6)
"Our ultimate Christian standards" certainly have not done much for Mr.Barr. Maybe he is still in kindergarten?

— (b) (6)
Speaking as a lawyer and a member of a Christian religious order, Barr's so-called "ethics" are toxic to both the law and the precepts of Christianity. The latter is between him and his Creator, but the former can only be remedied by a finding of ethical violations, which in turn weigh in favor of disbarment and removal from office.

— (b) (6)
As a Catholic, I deeply value the social teachings of the Church which call for respect and inclusion of all. I hope that Notre Dame will reject the Attorney General's narrow interpretation of the Gospel.

— (b) (6)

Somebody needs to acquaint Mr. Barr with the Constitution's provisions regarding separation of church and state.

— (b) (6)

The Christianity I was reared in included beliefs in tolerance, compassion and love. his Toxic Christian Nationalism is a vile distortion of Christ's teachings.

— (b) (6)

It's embarrassing that we have to keep explaining the Constitution to those in the federal government who have supposedly taken oaths to preserve, protect and defend it. Article VI, section 3, says, "[N]o religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

— (b) (6)

Please! Your ethics are unworthy of the office you hold.

— (b) (6)

I am an old white male in the rural south. Even so I cannot understand how a Republican Party that would ban a whole religion from being allowed to come to the United States can speak on religious liberty.

— (b) (6)

William Barr and Mike Pompeo are protecting Trump because they believe he will sign an executive order making this country a Christian State (their idea of a Christian State). They hate separation of church and state.

— (b) (6)

the American constitution is clear about the division between state and church. He needs to get with the agenda. If he can't he needs to resign. there are other religions in the world and they are all equal to the Christian religion. to make the statements he did simply isn't warranted. Has he ever looked at the history of Christians. its not great, so he ought to get a firm grasp of history and keep his mouth shut. Many americans are Sikhs, Muslims, Buddhists, etc.

— (b) (6)

Barr and his ilk belong to the kindergarten of Christianity

— (b) (6)

I'm an atheist and I definitely have way better morals than Barr, also I'm not corrupt like him.

— (b) (6)

"The Family" at work

— (b) (6)

Ultimate hubris, does not trust our Creator to make the 'right' final judgment.

— (b) (6)

Barr has showed that he is a dominionist and he has no right to call for christian law in a pluristic society.

— (b) (6)

Barr, keep your Dominionist nonsense to yourself and in church.

— (b) (6)

Barr should be impeached!

— (b) (6)

Separation of Church and State...the foundation of the United States and our Constitution.

— (b) (6)

Barr is unfit.

— (b) (6)
Sickening.

— (b) (6)
There are MANY who call themselves Christian but do not act as such. Methinks Wm Barr is one of those.

— (b) (6)
The phrase "Judeo-Christian moral values " betrays a basic perversion of theology and history.

— (b) (6)
One must wonder, given President Trump's precipitous actions in the middle east: Israel, Syria, Iraq, along with wholly objectionable alliance/support of Saudi Arabia's war with Yemen, if _both_ Attny Gen Barr and Secretary Pompeo are working together to implement their moronic, short-sighted, fundamentally flawed hyper-conservative, and demonstrably UN-Christian values interpretation of the New Testament to hasten the Second Coming of Jesus...(?!?!?)

— (b) (6)
The separation of church and state is an essential part of freedom for the American people. We need to impeach Barr for his toxic comments and views.

— (b) (6)
Mr. Barr is unfit to hold the office of Attorney General.

— (b) (6)
As a Christian and a firm believer in the 1st Amendment, I find your reported comments at Notre Dame an affront to the very Constitution you are charged to defend. Indeed, it is a betrayal of your constitutional duty.

— (b) (6)
Mr. Barr should resign immediately. His views are not founded on Christian doctrine.

— (b) (6)
Mr Barr: Do you honestly believe Jesus would approve of your behavior?

— (b) (6)
John Mitchell went to Jail so can Barr!

— (b) (6)
Not to mention his affiliation with Opus Dei....

— (b) (6)
Mr. Barr needs to read the Gospels and love his neighbor instead of perpetuating misinformation and scapegoating people that do believe in religious freedom...He is toxic to civil society.

— (b) (6)
Your toxic so-called Christian nationalism absolutely sucks!!! You are Christian in name only.

— (b) (6)
What a toerag.

— (b) (6)
I as a faithful Christian find William Barr's comments as unrepresentative of Christianity as possible. Disgusting!

— (b) (6)

Not representing the interests of the American people.

— (b) (6)
Protect us from the authoritarianism, hatred and sheer meanness of fundamentalist Christian theocrats who seek only authoritarian control over us all. Protect us from fundamentalist religious violence, oppression, misogyny, child abuse and abuse of the elderly. If manufactured never ending wars for profit, concentration camps, rape, child abuse, and unbridled greed are Judeo-Christian values, I want none of it. Our Deist Founding Fathers knew not to establish a state religion. By the way, that's the Goddess Columbia on top of the nation's Capitol. And protect us also from the sort of language subversion that pushes religious liberty for Christian fundamentalists at the expense of the rest of us.

— (b) (6)
People of all faiths deserve equal justice.

— (b) (6)
I am a Catholic, however my views are very liberal. I believe in a women's right to choose. I believe in religious diversity. No one has to follow another's religious beliefs. I am a Christian, but i do not impose my beliefs on anyone else.

— (b) (6)
AG Barr are you forgetting the phrase "we the people"? I'm sure it means all the people not just Judeo-Christians.

— (b) (6)
His comments do not include me, are dismissive of millions of good Americans, and are historically inaccurate.

— (b) (6)
If this is what religion has become in America, I want no part of it. You are distorting God's own word with your hateful speech.

— (b) (6)
Troubling and dangerous!

— (b) (6)
Jesus, we need you now more than ever. Fill the hearts of those who speak evil and renew the face of the earth! Thank you

— (b) (6)
We atheists also find Barr to be a toxic human? The nastiest, bar none (except the mad orange don).

— (b) (6)
Whatever happened to separation of church and state?

— (b) (6)
We are not a theocracy. The teachings of Jesus, as well as other great spiritual leaders, include all people - all of life.

— (b) (6)
Barr needs to reread the Constitution, then the Federalist Papers (which SCOTUS has sighted, in the past, for clarification of Constitutional language). This county WAS NOT established as a Christian nation nor upon biblical principles.

— (b) (6)
try to keep the Christian anti-war protestors out of jail.

— (b) (6)
As an agnostic I would be left out. This is my America too.

— (b) (6)

Why would a prestigious University like Notre Dame invite a bigot and bully to speak on religious liberty. Poor man has no idea of the concept! Put where he is by an utter ignoramus!

— (b) (6)
I find you comments repugnant and lacking in the Christian values I grew up with and treasure. In addition, as a child and sibling of disabled vets using it against other faiths goes against all they fought for. There is, and forever should be, a separation of religion and state. Please resign.

— (b) (6)
Our country was founded on freedom of religious. He is trying to destroy us. He is violating his oath of office.

— (b) (6)
As a Roman Catholic with Jewish nieces and nephews, I believe that Barr is not behaving very Christian or American! The separation of church and state is enshrined in our constitution and he seems woefully and willfully neglecting to live up to his oath of office and his Christian Doctrine!

— (b) (6)
This man is a criminal. He swore an oath to defend and protect America. He has done neither. He is an evil man who needs to be punished for his crimes against citizens of this country. Investigate him then pull his license and toss him in prison. Dreadful man.

— (b) (6)
Ever notice that the multi-chinned moralists are the most hypocritical?

— (b) (6)
Keep religion out of politics!!!

— (b) (6)
Shameful!

— (b) (6)
I work for Interfaith Council in Spokane Washington and know that every faith tradition has solid values. Your claim that only Judeo-Christian values are valid is absurd.

— (b) (6)
Psychology and Mindfulness (meditation, yoga, etc.) produce emotionally and socially mature people, without the medieval fairy tales.

— (b) (6)
have we ever had such a corrupt administration buoyed by a corrupt Attorney General who obviously works for tRump, NOT for the American people?

— (b) (6)
Christianity outlasts nations.

— (b) (6)
Good grief! This guy is awful and so was his speech.

— (b) (6)
America should NEVER become an autocratic, oligarchic theocracy, and we are coming frighteningly close.

— (b) (6)
What would Jesus do?

— (b) (6)

Beyond the pale for a U.S. Attorney General!

— (b) (6)
I still wonder what Barr's principles are. So far, they seem to be "suck up to the string, bash the weak, to hell with evidence". Has the enormous legal structure in the US, at immense cost, been reduced to this?

— (b) (6)
I was born in California and am a dual citizen. A.H. Barr's remarks are completely inappropriate, unprofessional and, in my opinion, unconstitutional. Shame on him! The (b) (6)

— (b) (6), ,
we need to fight fascism if we want to live the philosophy of Christ. they will put hitler's ideas into our daily life

— (b) (6)
I'm a PaganUU, and Barr's comments were more frightening than offensive. I interpreted his comments as being hostile to me should I either face him as an adversary or need him as a protector of my rights. This cannot stand up to his oath of office.

— (b) (6)
We are not a Christian Nation. We are a secular nation that gives religious freedom.

— (b) (6)
Yes! Religious FREEDOM is a foundation of this nation and must be protected and promoted. I'm a Christian, but this action by Barr offends me. It is so ignorant to not acknowledge that many other religions and non-religious people are very ethical.

— (b) (6)
There is no room in the USA for bigoted, separatist and nationalistic statements, such as the voice of exclusion and supremacy that US Attorney General Barr uttered.

— (b) (6)
I agree 100% with the petition statement.

— (b) (6)
Barr should be impeached.

(b) (6)
I write about Christians in Germany gone wrong in their support for Adolf Hitler. Check out "Theologians under Hitler," for example. Trump is not Hitler, but Barr is walking a very similar path to those mistaken Christians in Germany, AND he is violating our Constitution! (b) (6)

(b) (6)
Banning refugees is not Christian.

— (b) (6)
Trump and his cronies are showing no care for the US constitution and its many guiding principles. They all are candidates for impeachment.

— (b) (6)
The entire concept of Christianity being the "Chosen" religion is a slap in the face of the Lord. Jesus taught us to be inclusive and non-judgmental.

— (b) (6)
Everything about Barr is toxic

Barr does NOT represent all Christians. Barr actually gives Christians a bad name with his errors & vitriol.

— (b) (6)



February 27, 2020

Jeffrey R. Ragsdale
Acting Director
Office of Professional Responsibility
U.S. Department of Justice
Suite 3266
950 Pennsylvania Avenue N.W.
Washington, DC 20530

Dear Acting Director Ragsdale:

Democracy 21 is filing this complaint to again request the Office of Professional Responsibility to investigate and take appropriate action concerning the failures of Attorney General William P. Barr to “ensure fair and impartial administration of justice for all Americans.”

This is the fifth complaint that Democracy 21 has filed at the Justice Department in less than a year against Attorney General Barr, including four with your Office and one with the Inspector General. Previous complaints were filed on April 15, 2019, May 7, 2019, October 1, 2019 and January 17, 2020.

Barr’s transgressions have included repeated actions demonstrating clear bias on behalf of President Trump’s personal political interests, and failures by the Attorney General to comply with Department of Justice norms, standards of conduct and regulations.

We write to you because the Office of Professional Responsibility that you head is the only place in the Justice Department that has the institutional authority and the responsibility to address the problems with the professional conduct of Attorney General Barr.

This complaint challenges Barr’s unprecedented intervention into the Department’s handling of the sentencing process for Trump crony and political adviser Roger J. Stone, Jr. This intervention led more than 2,600 former federal prosecutors and Justice Department officials, who had served in both Republican and Democratic administrations, to call for the resignation of Attorney General Barr.¹

Collectively, this complaint and our four previous complaints have demonstrated Attorney General Barr’s clear and consistent pattern of bias in favor of protecting the personal political

¹ S. Collinson, “Justice Department storm intensifies with new attacks on Barr’s credibility,” *CNN* (Feb. 18, 2020).

interests of President Trump in utter disregard of Barr's overriding obligation to ensure the "impartial administration of justice on behalf of all Americans."²

Attorney General Barr has seriously compromised the integrity and credibility of the Justice Department as an independent, nonpartisan guardian of the rights and protections of all Americans. Barr has failed to meet the standards of professional responsibility that your Office was created to ensure and that are applicable to every lawyer in the Justice Department.

It is imperative that the Office of Professional Responsibility not stand silent. The country needs to hear from your Office that impartial administration of justice and responsible professional conduct remain the Justice Department standards for all DOJ lawyers---starting with, and most importantly, the Attorney General. Your Office is empowered by DOJ rules to hold the Attorney General accountable for his actions. It is incumbent that your Office act at this critical time for the American people and the Justice Department.

Attorney General Barr's intervention into the Department's handling of the sentencing process for Trump crony Roger Stone is unprecedented. The facts of this matter have been widely reported in the press. Stone was convicted on seven felony accounts of obstruction of Congress and witness tampering. Career prosecutors handling the case recommended to the court a seven-to-nine-year sentence for Stone, in accordance with federal sentencing guidelines and normal Department procedures.

Then, according to an account in *The New York Times*, "After prosecutors recommended on Monday a seven-to-nine-year sentence for Mr. Stone on seven felony convictions, the president criticized the move. Senior law enforcement officials overruled the career prosecutors the next day, immediately prompting accusations of political interference."³ In response to the intervention by "senior" Department officials, according to *The Washington Post*:

All four career prosecutors handling the case against Roger Stone withdrew from the legal proceedings Tuesday—and one quit his job entirely—after the Justice Department signaled it planned to undercut their sentencing recommendation for President Trump's longtime friend and confidant.

The sudden and dramatic moves came after prosecutors and their superiors had argued for days over the appropriate penalty for Stone, and exposed what some career Justice Department employees say is a continuing pattern of the historically independent law enforcement institution being bent to Trump's political will.⁴

² <https://www.justice.gov/jmd/organization-mission-and-functions-manual-overview>

³ C. Savage and A. Goldman, "William Barr Moves to Take the Reins of Politically Charged Cases," *The New York Times* (Feb. 14, 2020).

⁴ M. Zapposky, D. Barrett, A. Marimow and S. Hsu, "Prosecutors quit amid escalating Justice Dept. fight over Roger Stone's prison term," *The Washington Post* (Feb. 11, 2020).

The Department withdrew the original sentencing memorandum and filed a revised version stating that the original recommendation “could be considered excessive and unwarranted under the circumstances.”⁵ Ultimately, Stone received a sentence from the court of 40 months in prison. The fact that this was lower than the sentence recommended by the prosecuting attorneys in accordance with Justice Department policy is irrelevant to the favoritism for Stone that occurred.

As noted above, the extraordinary intervention by the Department was accompanied by a series of tweets and other public statements by President Trump that sharply criticized the original sentencing recommendation. Trump called the initial sentencing recommendation “an insult to our country,” “a horrible aberration,” “a disgrace” and “ridiculous.”⁶ After the Department withdrew and revised its original sentencing recommendation, Trump tweeted, “Congratulations to Attorney General Bill Barr for taking charge of a case that was totally out of control and perhaps should not have even been brought.”⁷

The open letter from more than 2,600 former Department officials and prosecutors “strongly condemns President Trump’s and Attorney General Barr’s interference in the fair administration of justice.” The letter stated, “A person should not be given special treatment in a criminal prosecution because they are a close political ally of the President.”⁸

In an [article](#) published in Just Security, Stuart Gerson addressed Barr’s intervention in this matter to obtain a lower sentencing recommendation for Roger Stone. Gerson served with William Barr in the Justice Department in the George H.W. Bush administration and served briefly as Acting Attorney General in the Clinton administration.⁹ He wrote:

Whatever the Attorney General was thinking, his low-ball recommendation gives more of a whiff of favoritism than it does of principle. Indeed, one cannot recall any similar leniency being ordered in any other case, particularly in the host of cases that the government brings against members of minority groups or those who are economically disadvantaged. In fact, the Stone prosecution team did no more than to follow the Department policy of the so-called “Sessions Memo” that required them to seek the most severe sentence that the facts of the case allowed. In short, it looks to many present and former federal prosecutors that undue leniency was being afforded to a privileged, white friend of the president, who himself lent credence to the charge of favoritism by his

⁵ *Id.*

⁶ *Id.*

⁷ E. Sullivan and M. Shear, “Trump Praises Barr for Rejecting Punishment Recommended for Stone,” *The New York Times* (Feb. 12, 2020).

⁸ “DOJ Alumni Statement on the Events Surrounding the Sentencing of Roger Stone,” *Medium* (Feb. 16, 2020).

⁹ S. Gerson, “Let the Rule of Law Rule Law Enforcement: Reflections on the Current Attorney General’s Tenure,” *Just Security* (Feb. 25, 2020).

relentless social media criticism of the case, the prosecutors, and even the presiding judge.

Attorney General Barr recently has exercised his authority to protect Trump's personal political interests in other ways as well. He has "assigned an outside prosecutor to scrutinize the criminal case against President Trump's former national security adviser Michael T. Flynn....," a review that the *Times* said "is highly unusual and could trigger more accusations of political interference by top Justice Department officials into the work of career prosecutors."¹⁰

This move by Barr again followed public statements by Trump saying that Department prosecutors "ought to be ashamed of themselves" about "what they've done to General Flynn..." and also saying that "what they did to General Flynn is very unfair, in my opinion."¹¹

The *Post* noted the parallel in Barr's handling of the Stone and Flynn cases: "In each case, Trump criticized the department's treatment of a Trump ally; in both cases, Barr has inserted himself in an unorthodox manner that invites accusations of politicization."¹²

Barr also is continuing to oversee an ongoing investigation he assigned to U.S. Attorney John H. Durham into the federal government's response to Russian election interference in the 2016 campaign. This investigation includes a review of the activities of U.S. intelligence agencies that found Russia secretly tried to help Trump win in 2016, a finding that Trump has repeatedly criticized. According to the *Times*:

Mr. Durham appears to be pursuing a theory that the C.I.A., under its former director John O. Brennan, had a preconceived notion about Russia or was trying to get a particular result—and was nefariously trying to keep other agencies from seeing the full picture lest they interfere with that goal, the people said.¹³

The *Times* added, "Mr. Durham's questioning is certain to add to accusations that Mr. Trump is using the Justice Department to go after his perceived enemies, like Mr. Brennan, who has been an outspoken critic of the president."¹⁴

The Barr-led investigation into the origins of the Russia investigation continues even though the Justice Department's independent, nonpartisan Inspector General found in December 2019 that

¹⁰ C. Savage, A. Goldman, M. Apuzzo, "Barr Installs Outside Prosecutor to Review Case Against Michael Flynn, Ex-Trump Adviser," *The New York Times* (Feb. 14, 2020).

¹¹ A. Blake, "Another case Trump meddled in. Another unorthodox intervention from Barr," *The Washington Post* (Feb. 15, 2020).

¹² *Id.*

¹³ C. Savage, A. Goldman and J. Barnes, "Justice Dept. Is Investigating C.I.A. Resistance to Sharing Russia Secrets," *The New York Times* (Feb. 13, 2020).

¹⁴ *Id.*

the Department had sufficient basis to initiate the 2016 investigation and that FBI and Department officials had acted without political bias in conducting the investigation.

The IG found with regard to the opening of the investigation that “under the AG Guidelines and the [FBI Guidelines], the FBI had an authorized purpose when it opened Crossfire Hurricane to obtain information about, or protect against, a national security threat or federal crime, even though the investigation also had the potential to impact constitutionally protected activity.” IG Rpt. at iii.¹⁵

Attorney General Barr immediately attacked the IG report by criticizing and challenging the Inspector General’s conclusion that there was a legitimate basis to open the 2016 investigation.

Attorney General Barr said that “the FBI launched an intrusive investigation of a U.S. presidential campaign on the thinnest of suspicions that, in my view, were insufficient to justify the steps taken.”¹⁶ In a separate statement, Durham challenged the Inspector General report, stating that he “advised the Inspector General that we do not agree with some of the report’s conclusions as to predication and how the FBI case was opened.”¹⁷

Barr also went further, alleging without offering any proof that Obama administration officials had spied on the president’s associates and, in the process, jeopardized civil liberties.

The broad picture painted by all of these episodes is that Attorney General Barr continues to enable the weaponization of the Justice Department to advance the personal political interests of President Trump. This is directly contrary to Barr’s principal responsibility as Attorney General to ensure fair and impartial justice and to act in the best interests of all Americans, not to serve the personal political interests of the President.

Since Watergate, the norms of the Justice Department have been clear: the Attorney General needs to protect the independence of the Department from interference by the President and the White House, particularly in matters relating to the investigative and prosecutorial functions of the Department, and needs to insulate career prosecutors from political pressure.

Barr’s interference with line prosecutors in the sentencing of Roger Stone is a clear example of improperly promoting President Trump’s personal political interests at the expense of Justice Department norms that have existed for more than four decades.

¹⁵ DOJ Office of the Inspector General, “Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation,” Oversight and Review Division 20-012 (December 2019 (Revised)) (<https://oig.justice.gov/reports/2019/o20012.pdf>)

¹⁶ “Statement by Attorney General William P. Barr on the Inspector General’s Report of the Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation,” Department of Justice (Dec. 9, 2019).

¹⁷ “Statement of U.S. Attorney John H. Durham,” Department of Justice (Dec. 9, 2019).

Barr's decision to initiate a review of the handling of the case of Michael Flynn by Justice Department lawyers is another example of bending justice to the personal political interests of Trump. And so is Barr's decision to initiate the Durham investigation into those who investigated the Russian interference in the 2016 election and reached conclusions that Trump attacked as a witch hunt and "Fake News." Barr's attacks on the Inspector General finding that the 2016 Russia investigation was properly initiated are yet another example of Barr serving Trump's personal political interests at the expense of the institutional integrity and credibility of the Justice Department.

In these cases, Barr has taken actions which respond to and accommodate Trump's clear desire to use the Justice Department to protect his friends and punish his enemies.

The standards of conduct, norms of behavior and rules of the Justice Department are designed to safeguard the integrity and credibility of the Department, and to protect it from political interference. They have been seriously violated by Attorney General Barr in his repeated actions to protect President Trump and advance Trump's personal political interests.

As head of the Office of Professional Responsibility, it is your responsibility to hold Attorney General Barr accountable for his unprofessional and damaging conduct. It is your responsibility to protect the integrity and credibility of the Department and its employees, even when the matter involves the Attorney General.

Democracy 21 calls on you to investigate the unprofessional conduct and inappropriate actions by Attorney General Barr in the matters described in this complaint and the previous complaints filed by Democracy 21. We urge you to take appropriate action concerning Attorney General Barr to ensure that the accelerating deterioration of the independence, integrity and credibility of the Justice Department is stopped before irreparable damage is done to the Department.

Sincerely,



Fred Wertheimer
President

Copy to:

Michael Horowitz, Inspector General
Cynthia K. Shaw, Director, Departmental Ethics Office



October 1, 2019

Michael Horowitz
Inspector General
U.S. Department of Justice
Suite 4706
950 Pennsylvania Ave N.W.
Washington, DC 20530

Re: Democracy 21 complaint requesting Inspector General to investigate Attorney General Barr's activities relating to the Ukraine affair

Dear Inspector General Horowitz:

Attorney General William Barr is prominently named in the [complaint](#) filed by a whistleblower alleging that President Trump, working with others, solicited and sought to pressure the government of Ukraine into intervening in the 2020 presidential election by providing derogatory information about former Vice President Joe Biden, a potential Democratic Party presidential nominee in the 2020 election in which President Trump is running for reelection.

The second paragraph of the whistleblower complaint states that “the President of the United States is using the power of his office to solicit interference from a foreign country in the 2020 U.S. election.” The complaint then says, “Attorney General Barr appears to be involved as well.”

The complaint describes a July 25, 2019 telephone call that President Trump had with Ukrainian President Volodymyr Zelensky in which President Trump “sought to pressure the Ukrainian leader to take actions to help the President’s 2020 reelection bid.” According to the complaint, President Trump urged Zelensky to meet or speak with Attorney General Barr, whom the President referred to multiple times during the call.

Thus, according to the whistleblower complaint, Attorney General Barr was named by President Trump to serve as the president’s personal representative in his effort to solicit a foreign government to intervene in the 2020 election.

The principal allegations in the complaint are confirmed by the [memorandum](#) released by the White House on September 25, 2019 describing the contents of the July 25 phone call between President Trump and President Zelensky.

Both the whistleblower complaint and the White House report describing the Zelensky call contain multiple references to statements by President Trump saying that he is involving Attorney General Barr in his efforts to press a foreign country to investigate his political opponent. For that reason, the allegations in the complaint directly implicate the institutional integrity of the Justice Department and raise the question of whether the Attorney General, named by the President as a participant in this matter, has failed to carry out the [mission](#) of the Justice Department “to ensure fair and impartial administration of justice for all Americans.”

Accordingly, Democracy 21 calls on you to promptly conduct an investigation to determine what role Attorney General William Barr played in President Trump’s efforts to pressure Ukraine to interfere in the 2020 presidential election by gathering derogatory information on President Trump’s potential opponent in that election.

This investigation also needs to determine if Attorney General Barr engaged in improper conduct by failing to immediately and formally recuse himself from *any* role in the Department’s subsequent actions and decisions on the whistleblower complaint as soon as Attorney General Barr learned that he was named in the complaint.

Further, the investigation needs to determine whether Attorney General Barr played any role in attempting to cover up the whistleblower complaint by participating in the discussions or decisions by the Justice Department that initially prevented the complaint from being transmitted to Congress, as the Inspector General of the Intelligence Community apparently believed was required by law, or in [determining](#) that the complaint presented no violations of federal law that warranted further investigation.

In particular, the investigation by your office should examine:

- Whether and to what extent Attorney General Barr has discussed with President Trump, his attorney Rudy Giuliani or with any other White House, Justice Department or Trump campaign official the subject of encouraging, soliciting or pressuring the government of Ukraine to investigate and provide derogatory information about Vice President Biden or his family.
- Whether Attorney General Barr has had any contact, in person, by telephone or by other means, with any official or agent of the government of Ukraine about an investigation of Vice President Biden or his family.
- Whether Attorney General Barr or the Justice Department has conducted or is conducting any investigation of Vice President Biden or his family, and whether Attorney General Barr has discussed with President Trump, with his attorney Rudy Giuliani or with any other White House or Trump campaign official, or with any officer or employee of the Justice Department, the subject of having the Justice Department open and/or conduct an investigation of Vice President Biden or his family.

- When and under what circumstances Attorney General Barr learned of the existence of the whistleblower complaint about President Trump’s efforts to solicit Ukraine to provide derogatory information about Vice President Biden or his family, and whether Attorney General Barr should have formally recused himself from any Departmental consideration of or decisions about the complaint upon learning that he is named in the complaint.
- Whether and to what extent Attorney General Barr or the office of the Attorney General was involved in the Department’s discussions or decision-making process regarding the whistleblower complaint, including whether the complaint should have been transmitted to Congress by the Acting Director of National Intelligence.
- Whether and to what extent Attorney General Barr or the office of the Attorney General was involved in the Department’s discussions or decision-making process regarding the issue of whether efforts by President Trump and others to solicit or pressure the government of Ukraine to provide derogatory information about Vice President Biden or his family constituted a violation of the federal campaign finance laws.

The fact that the whistleblower complaint and the White House summary of the President’s call to President Zelensky both state that the President identified Attorney General Barr as a participant in what appears to be a gross abuse of power by the President makes this a matter of urgent institutional importance for the Department of Justice.

A prompt investigation by your office to determine the facts in this matter and to determine whether the Attorney General was involved in any improper conduct is essential in order for the American people to have confidence in the Department of Justice and in Attorney General Barr’s integrity and ability to credibly conduct the impartial administration of the law as the nation’s chief law enforcement officer.

Additional Background and Issues

The statement in the whistleblower complaint that President Trump named Attorney General Barr as a participant in his effort to solicit the government of Ukraine to provide derogatory information about Vice President Biden is confirmed by the White House summary of the July 25 telephone call between President Trump and President Zelensky.

According to the official White House account, President Trump specifically mentioned Attorney General Barr five times during that call (emphases added):

“I would like to have *the Attorney General* call you or your people and I would like you to get to the bottom of it.”

“I will ask him [Giuliani] to call you along with *the Attorney General*.”

“There’s a lot of talk about Biden’s son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with *the Attorney General* would be great.”

“I will have Mr. Giuliani give you a call and I am also going to have *Attorney General Barr* call and we will get to the bottom of it.”

“I will tell Rudy and *Attorney General Barr* to call. . . .”

These quotes—from the official White House memorandum on the July 25 call—by themselves raise a host of questions that require investigation about the role that Attorney General Barr may have played in President Trump’s efforts to use a foreign government to obtain derogatory information about a political opponent. Your office should determine whether the President, the White House or any agent of the President or White House at any time communicated to the Attorney General any instruction or suggestion that the Attorney General call President Zelensky or his “people” about investigating Vice President Biden.

If you determine that any such communication was made to the Attorney General, you should then determine what instructions or suggestions were given and whether Attorney General Barr took any actions in response to such instructions or suggestions. Beyond the question of whether the Attorney General was asked or instructed to call any Ukrainian official or agent following the July 25 call, your office should more broadly investigate whether the Attorney General has participated in any discussions or taken any actions related to soliciting the government of Ukraine to investigate Vice President Biden or to provide derogatory information about him, either before or after the July 25 call.

The investigation also should determine whether the Attorney General has authorized or participated in any investigation of Vice President Biden or his son, Hunter Biden; whether President Trump or his agents requested or instructed the Attorney General or the Department to undertake any such investigation as well as whether any such investigation either was conducted or is currently being conducted, and if so, whether there are legitimate grounds for the Department to investigate a leading potential opponent of President Trump in the 2020 presidential election.

Your investigation should also determine whether Attorney General Barr complied with Justice Department recusal requirements by immediately and formally recusing himself from any discussions and decisions regarding the whistleblower complaint. 28 C.F.R. § 45.2, *see also* 25 C.F.R. § 2635.502. Because the complaint states that Attorney General Barr “appears to be involved” in the allegations made in the complaint, the Attorney General’s participation in or oversight of the Department’s handling of the complaint would, at a minimum, “create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.” 28 C.F.R. § 45.2(b)(2).

According to published [reports](#), the whistleblower complaint was initially filed with Michael K. Atkinson, the Inspector General of the Intelligence Community, on August 12, 2019. According to a [letter](#) dated September 17, 2019 to the chairman and vice chairman of the House Permanent

Select Committee on Intelligence, Mr. Atkinson determined that the complaint met the statutory definition of expressing an “urgent concern” as set forth in 50 U.S.C. § 3033(k)(5)(G)(i). This triggered Mr. Atkinson’s statutory obligation to forward the complaint to Acting DNI Joseph Maguire, along with his “urgent concern” determination, [which he did](#) on August 26, 2019. This transmittal in turn triggered the DNI’s obligation, within seven days, to forward the complaint to the congressional intelligence committees along with any comments he considers appropriate. *Id.* § 3033(k)(5)(C).

The Acting DNI, however, did not forward the complaint to Congress, as required by statute. Instead he sought guidance from the White House and the Department of Justice as to whether he should do so. According to a [report](#) in *The Washington Post*:

Maguire said he first sought guidance from the White House Counsel’s Office and next from the Office of Legal Counsel at the Justice Department. Officials raised the possibility that the complaint could be covered by executive privilege, but no one reached a definitive ruling on that, Maguire said.

In an [opinion](#) released on September 24, 2019 but initially made on September 3, 2019, the Office of Legal Counsel (OLC) concluded that the whistleblower complaint did not meet the statutory definition of an “urgent concern” and therefore that the Acting DNI did not have a statutory obligation to transmit the complaint to the Congress. Instead, the OLC determined that the complaint should be referred to the Department’s Criminal Division for review of whether the actions described in the complaint constituted violations of the federal campaign finance laws. The Department [announced](#) that the Criminal Division subsequently concluded that the complaint did not present any violations of federal law that warranted further investigation.

According to a [report](#) in *The Washington Post*:

Senior Justice Department officials said the director of national intelligence referred concerns about the [Zelensky] call to the Justice Department in late August, after the intelligence community inspector general found that it was a possible violation of campaign finance laws. Days later, the inspector general referred the matter to the FBI.

Career prosecutors and officials in the Justice Department’s criminal division reviewed the rough transcript, which they obtained voluntarily from the White House, and determined the facts “could not make” the appropriate basis for an investigation, a senior Justice Department official said Wednesday. The final decision was made by Brian Benczkowski, who leads the Justice Department’s criminal division. As part of their reasoning, Justice Department lawyers determined that help with a government investigation could not be quantified as “a thing of value” under the law, officials said. . . .

Thus, by determining both that the law did not require the whistleblower complaint to be forwarded to Congress and that the complaint did not present any potential violations of federal law that warranted investigation, the Department of Justice took two separate actions that

collectively had the result of shielding the complaint from public or congressional scrutiny and which, if successful, would have ensured that there would not be a full investigation of the allegations in the complaint. The fact that Congress subsequently learned of the complaint and that congressional and public pressure led to its ultimate disclosure does not mitigate the impact of the Department's prior decisions to shield the complaint from public scrutiny and to quickly terminate any investigation of the allegations made in the complaint.

While in the normal case there should be a presumption of regularity given to decisions made by the Department, this is not a normal case. Here, as set forth multiple times in the White House summary of the Zelensky call, President Trump names Attorney General Barr as a participant in the activities that form the substance of the whistleblower complaint. The naming of the Attorney General in the allegations of the complaint overcomes any presumption of regularity for decisions about the complaint that were made by either the Attorney General or by his subordinates in the Department. It requires that there be an investigation of those decisions, especially where those decisions initially had the effect of blocking the transmittal of the complaint to Congress by the Acting DNI, and then terminating any investigation into the complaint by the Justice Department.

Accordingly, we believe it is essential that you investigate the process followed by the OLC in issuing its ruling that the complaint did not constitute an "urgent matter" under the whistleblower statute. We also urge you to investigate the process followed by the Criminal Division in concluding that the complaint did not present any violation of federal law that required a full investigation by the Department.

In both instances, you should determine whether Attorney General Barr, or any member of his office, participated in discussions relating to the complaint or had any input into the decisions reached by the Department about the complaint, and whether the Department's decision-making process was in any way tainted by the Attorney General's self-interest in the matter.

According to a published [report](#), "Department officials played down Barr's role [in this matter], saying that he was 'generally knowledgeable' of the discussions about the O.L.C. decision to find the complaint not urgent, but was not involved in the Criminal Division's decision to decline to investigate the allegations."

These characterizations by "Department officials" should not be accepted at face value and should be subject to careful scrutiny, including whether under DOJ recusal requirements, Attorney General Barr should not have been even "generally knowledgeable" about any Justice Department discussions relating to the OLC decision. You should also determine what role, if any, the President and the White House, or their agents, played in these Justice Department decisions, given the fact that President Trump is the subject of the whistleblower complaint.

As noted earlier, a core [mission](#) of the Department of Justice is "to ensure fair and impartial administration of justice for all Americans." President Trump's repeated statements to a foreign leader that he will have Attorney General Barr work directly with that leader to obtain derogatory information about a U.S. presidential candidate implicates the Attorney General in a gross abuse of power by the President. It also casts public doubt on the institutional integrity and

fairness of the Department itself with regard to the Department's decisions about the handling of the whistleblower complaint, and decisions with regard to the criminal referral made to the Justice Department in this matter.

Democracy 21 calls on you to promptly investigate the matters raised in our complaint and to determine whether the Attorney General engaged in improper conduct in the actions he took (or failed to take) regarding President Trump's efforts to have a foreign country interfere in the 2020 presidential election for the President's personal political benefit, at the expense of the integrity of our elections and the national security of our country.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Wertheimer", with a long horizontal flourish extending to the right.

Fred Wertheimer
President



2000 Massachusetts Avenue, NW
Washington, DC 20036
202.355.9600
www.democracy21.org

January 17, 2020

Jeffrey R. Ragsdale
Acting Director
Office of Professional Responsibility
U.S. Department of Justice
Suite 3266
950 Pennsylvania Avenue N.W.
Washington, DC 20530

Cynthia K. Shaw
Director
Departmental Ethics Office
U.S. Department of Justice
950 Pennsylvania Avenue N.W.
Washington, DC 20530

Dear Acting Director Ragsdale and Director Shaw:

Democracy 21 is filing this complaint to request that the Office of Professional Responsibility and the Departmental Ethics Office investigate and take appropriate action regarding the failure by Attorney General William P. Barr to comply with Department of Justice Department norms, standards of conduct and regulations.

It is your responsibility to the Justice Department and the American people to hold DOJ officials, from staff attorneys to the Attorney General himself, accountable for failing to comply with Justice Department norms, standards and rules. Democracy 21 strongly urges you to carry out this responsibility by holding the Attorney General accountable for failing to operate within the boundaries of acceptable conduct for a Justice Department official.

The improper actions by Attorney General Barr cover a wide range of his statements and activities but all result from a single overriding impropriety: the Attorney General has eschewed the core mission of the Department of Justice “to ensure fair and impartial administration of justice for all Americans.”¹

Attorney General Barr has instead repeatedly demonstrated bias in acting to protect the personal and political interests of President Trump, as opposed to protecting the interests of the American people. He has done this to the detriment of the country and in derogation of the mission and integrity of the Department he heads.

As we discuss below, Attorney General Barr has directly contradicted, misrepresented or undermined the independent, non-partisan and credible work of both the Department’s Inspector General and its Special Counsel, in order to blunt conclusions by these officials which were contrary to the views and interests of President Trump. He has publicly echoed the President’s

¹ <https://www.justice.gov/jmd/organization-mission-and-functions-manual-overview>

inflammatory rhetoric about “spying” and “collusion” without providing any adequate legal basis for using these terms. And he has refused to recuse himself from sensitive Department decisions about the handling of a whistleblower complaint alleging a gross abuse of power by President Trump and in which the Attorney General himself is directly and personally implicated.

We enclose for your information a letter sent by the New York City Bar Association to the Republican and Democratic leaders of the House and Senate which expresses “serious concerns about the propriety of Barr’s recent actions and statements.” The letter urges Congress “to commence formal inquiries into a pattern of conduct by Attorney General William P. Barr that threatens public confidence in the fair and impartial administration of justice.”

As a member of the President’s Cabinet and of his Administration, the Attorney General has the job of implementing the President’s policy goals. But the Attorney General, uniquely among Cabinet officers, also has the overriding obligation to serve the interests of “fair and impartial justice for all Americans,” and to ensure—as the nation’s chief law enforcement official—that the administration of justice is not subordinated to the President’s personal or political interests.

It is the clear duty of the Attorney General always to maintain fidelity to the Constitution and to the nation’s legal system, and never to abdicate these responsibilities to protect the President’s personal or political interests at the expense of the impartial administration of justice.

Attorney General Barr has repeatedly failed meet this critical obligation to the American people. Therefore, as the Justice Department officials who have the responsibility to safeguard the norms, standards and rules that protect the Department’s integrity and credibility, it falls to you to investigate and take appropriate remedial action to address the Attorney General’s improper conduct.

i.

Since taking office, President Trump has loudly and repeatedly attacked the Justice Department and the FBI, proclaiming that they improperly and illegally initiated and conducted an investigation into whether the 2016 Trump campaign coordinated or conspired with agents of Russia who interfered with the 2016 presidential election. Trump has claimed that FBI and Justice Department officials initiated the investigation without an evidentiary basis to do so and that they conducted the investigation with political bias against him.

The New York Times has characterized Trump’s views as “his long obsession with the origins of the Russia inquiry.”²

The investigation of the Trump campaign and its relationship with Russia was initially opened by the FBI in July 2016, shortly before the 2016 Republican nominating convention. Ultimately, in May 2017, former Deputy Attorney General Rod Rosenstein appointed former

² K. Benner and Adam Goldman, “Justice Dept. Is Said to Open Criminal Inquiry Into Its Own Russia Investigation,” *The New York Times* (Oct. 24, 2019).

FBI Director Robert Mueller as Special Counsel to conduct the investigation. Mueller released a full report on the findings of his investigation in July 2019.

In March 2018, well before the Mueller investigation was completed, Inspector General Michael Horowitz announced that in response to requests from Attorney General Sessions and Members of Congress, he was undertaking an independent investigation into the origins and conduct of the Department's investigation of the 2016 Trump campaign in order to determine, among other matters, whether the investigation was begun in compliance with Departmental rules and standards, and whether there was any evidence of bias or impropriety in how the investigation was conducted.

In May 2019, four months after he became Attorney General, and notwithstanding the fact that the Inspector General's independent investigation had been underway for well over a year, Attorney General Barr announced his own separate investigation into the same matter: the origins of the Department's 2016 investigation.³ He appointed John Durham, the U.S. Attorney for Connecticut, to head this investigation, which, unlike the Inspector General's investigation, was under Barr's direct control and supervision. In October 2019, press reports stated that the Durham investigation shifted from "an administrative review of the Russia investigation overseen by Attorney General William P. Barr to a criminal inquiry. . . ."⁴ As this press report noted, "The move also creates an unusual situation in which the Justice Department is conducting a criminal investigation into itself." *Id.*

On December 9, 2019, Inspector General Horowitz released his long-anticipated report.⁵ In that report, the Inspector General found that the Department did have sufficient basis to initiate the 2016 investigation and that FBI and Department officials had acted without political bias in conducting the investigation.

The report also found that the FBI committed numerous errors in its dealings with the FISA court to seek and renew wiretap warrants related to the investigation.⁶ But with regard to the opening of the investigation, the Inspector General specifically found that "under the AG Guidelines and the [FBI Guidelines], the FBI had an authorized purpose when it opened Crossfire Hurricane to obtain information about, or protect against, a national security threat or federal crime, even though the investigation also had the potential to impact constitutionally protected activity." IG Rpt. at iii.

³ A. Goldman, C. Savage, M. Schmidt, "Barr Assigns U.S. Attorney in Connecticut to Review Origins of Russia Inquiry," *The New York Times* (May 13, 2019).

⁴ K. Benner and Adam Goldman, "Justice Dept. Is Said to Open Criminal Inquiry Into Its Own Russia Investigation," *The New York Times* (Oct. 24, 2019).

⁵ DOJ Office of the Inspector General, "Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation," Oversight and Review Division 20-012 (December 2019 (Revised)) (<https://oig.justice.gov/reports/2019/o20012.pdf>)

⁶ C. Savage, A. Goldman and K. Benner, "Report on F.B.I. Russia Inquiry Finds Serious Errors but Debunks Anti-Trump Plot," *The New York Times* (Dec. 9, 2019).

Attorney General Barr immediately attacked the Inspector General's report. In an extraordinary statement released the same day as the Inspector General report, the Attorney General criticized and challenged the Inspector General's conclusion that there was an adequate basis to open the 2016 investigation. Directly contradicting the specific finding made by the Inspector General, Attorney General Barr said that "the FBI launched an intrusive investigation of a U.S. presidential campaign on the thinnest of suspicions that, in my view, were insufficient to justify the steps taken." (Emphasis added).⁷

In a separate statement released the same day, U.S. Attorney Durham followed suit and publicly challenged the Inspector General report, stating that he "advised the Inspector General that we do not agree with some of the report's conclusions as to predication and how the FBI case was opened."⁸

The very next day, Barr doubled down on his criticisms of the Inspector General:

Mr. Barr said for a second straight day that he disagreed with the findings in the long-awaited report by the inspector general, Michael E. Horowitz, that the F.B.I. lawfully opened its inquiry. And he went further, saying that Obama administration officials had spied on the president's associates and, in the process, jeopardized civil liberties.

"The greatest danger to our free system is that the incumbent government use the apparatus of the state, principally the law enforcement and intelligence agencies, both to spy on political opponents but also to use them in a way that could affect the outcome of an election," Mr. Barr said in an interview with NBC News.⁹

While it is not unusual for the head of an agency to issue a statement publicly disagreeing with findings by an Inspector General that are critical of the agency, it is very rare for an agency head to disagree with an Inspector General's conclusion that exonerates the agency of wrongdoing. Here, however, Attorney General Barr rejected the Inspector General's conclusion exonerating the Justice Department in finding that there was an "authorized purpose" in initiating the 2016 investigation. Barr, instead, issued statements critical of the Department he heads, echoing the attacks on the Justice Department made by President Trump but disproven by the Inspector General.

Most importantly, DOJ rules prohibit Department officials from publicly commenting on open criminal investigations. These rules state that Department personnel may not "confirm the

⁷ <https://www.justice.gov/opa/pr/statement-attorney-general-william-p-barr-inspector-generals-report-review-four-fisa>

⁸ <https://www.justice.gov/usao-ct/pr/statement-us-attorney-john-h-durham>

⁹ K. Benner and E. Sullivan, "Trump and Barr Escalate Attacks on F.B.I. Over Report on Russia Inquiry," *The New York Times* (Dec. 10, 2019).

existence of or otherwise comment about ongoing investigations” and may not comment on “the nature or progress” of an “ongoing investigation.” USAM § 1-7.400 (April 2018).

In general, this provision forbids Department officials, including the Attorney General, from engaging in any discussion about active criminal investigations, except in limited, specific circumstances that are not applicable here.

The statements issued by both Attorney General Barr and U.S. Attorney Durham disagreeing with the key conclusions of the Inspector General report were clearly based on their views about the findings of the parallel criminal investigation they are conducting into the same matter that was investigated by the Inspector General. Thus, Attorney General Barr and U.S. Attorney Durham chose to discuss an ongoing criminal investigation in order to attack the findings of the Inspector General and thereby improperly provided cover for President Trump’s obsessive attacks on the 2016 Russia/Trump investigation opened by the Justice Department and the FBI.

Democracy 21 believes these statements were in violation of DOJ rules prohibiting Department officials from commenting on open criminal investigations.

There was no legitimate reason for them to make these statements about the Inspector General report. The only plausible explanation for their comments is that Barr and Durham wanted to publicly undermine the Inspector General report on the day of its release and thereby to blunt the public impact of its findings. They apparently did so because the Inspector General’s key finding that the 2016 investigation was initiated in conformance with Departmental guidelines is contrary to the repeated attacks on the investigation that have been made by President Trump.

Attorney General Barr’s improper statements challenging the Inspector General report served only the interests of President Trump, who has relentlessly attacked the Justice Department for improperly undertaking the 2016 investigation. President Trump’s attacks were validated by Barr’s criticism of the Inspector General’s report.

Barr’s statements did not serve the interests of the Department of Justice, whose officials were vindicated by the report’s conclusions with regard to the origins of the 2016 investigation. Nor did Barr’s statements further the interests of the American people, who were well served by having the Inspector General conduct a thorough, independent and non-partisan review of this controversial question.

By publicly attacking the Inspector General report immediately upon its issuance, by specifically disagreeing with its central conclusion, and by having U.S. Attorney Durham follow with his challenge to the report, Attorney General Barr undermined his own Inspector General and attacked his own Department. Barr demonstrated his bias and fealty to President Trump, contravening the Department’s mission of promoting “fair and impartial justice for all Americans,” in favor of echoing President Trump’s irresponsible attacks on the Justice Department itself.

ii.

Attorney General Barr's attack on the Inspector General report is just the latest example of an ongoing pattern of bias elevating the personal and political interests of President Trump over the interests of the Department of Justice and the American people. This has been a pattern for Barr since he became Attorney General.

A. Barr demonstrated bias and violated Justice Department norms and standards of conduct by publicly testifying in Congress that FBI and Justice Department officials engaged in "spying" on the Trump campaign during the 2016 presidential election. Barr did so without providing a scintilla of evidence to back up his explosive allegation. These statements by Attorney General Barr could only be understood as an attack on the integrity and credibility of Justice Department and FBI officials.

On April 15, 2019, Democracy 21 filed a complaint with the DOJ Office of Professional Responsibility, stating that it was improper for the Attorney General to charge that "spying" has occurred by the FBI and Justice Department when he had no evidence to back up his claim. Indeed, in response to a question about whether he had evidence to substantiate his claim, Barr said, "I have no specific evidence that I would cite right now. I do have questions about it."¹⁰

The remarks of the Attorney General and his explosive allegation that "spying" occurred did not take place in a vacuum. Instead, they were made in the context of a heated political attack by President Trump and his allies on the lawfulness of the Special Counsel investigation into whether a hostile foreign power illegally interfered in the 2016 presidential election to benefit the Trump campaign, and whether it did so in coordination with members of the Trump campaign.

Attorney General Barr knew or certainly should have known that his unsubstantiated allegation would be publicly used by President Trump to validate his unsubstantiated claim that illegal "spying" on his campaign had occurred, and that the whole investigation by Special Counsel Robert Mueller was tainted as a result. Thus, the Attorney General wittingly and improperly made himself part of the President's effort to discredit the Special Counsel's investigation. He used the office of the Attorney General to participate on behalf of President Trump in a political battle attacking the very Department he leads.

B. On May 7, 2019, Democracy 21 filed an additional complaint with the DOJ Office of Professional Responsibility alleging that Attorney General Barr was required to be recused from any involvement in the 14 active Justice Department matters stemming from the Special Counsel investigation that were referred to the Department by the Special Counsel. To our knowledge, the recusal never occurred.

The recusal was necessary because of Barr's demonstrated bias in his handling of the report issued by Special Counsel Mueller, and his effort to "spin" the release of the report in order to diminish any criticism of President Trump. Barr's actions and statements relating to the Mueller report collectively demonstrated a pattern of bias in favor of President Trump that

¹⁰ D. Barrett and K. Demirjian, "Attorney general says he believes 'spying did occur' in probe of Trump campaign associates," *The Washington Post* (April 10, 2019).

created the clear public impression he was serving as President Trump’s defense counsel rather than as the Nation’s chief attorney.

First, upon receiving the final report from the Special Counsel and before it was released to the public, Barr sent a four-page letter to Congress on March 24, 2019, mischaracterizing the Mueller report.¹¹ Barr then left his mischaracterization as the only information available to Congress and to the public for almost a month before he finally released the report to Congress and the public.

Barr’s March 24 letter allowed President Trump to claim, without contradiction, that the Mueller report exonerated him on charges of collusion and obstruction of justice.

In fact, the report did no such thing. The report did not deal with collusion at all, but only with the legal issues of conspiracy and coordination. The report also explicitly stated that it did not exonerate President Trump on obstruction of justice.

Indeed, far from exonerating Trump on obstruction of justice, the report indicated that the Special Counsel did not seek an indictment on obstruction of justice because of a Justice Department policy, which the Special Counsel was obligated to follow, that prohibited indictment of a sitting president. In fact, the Mueller report “found 10 instances where President Donald Trump’s conduct raised issues of possible obstruction of justice.”¹²

The Special Counsel himself objected to Barr’s inaccurate description of the Special Counsel report. Mueller sent a letter to Barr on March 27, three days after his March 24 letter to Congress, protesting Barr’s characterization of the report and urging him to release the summaries contained in the Mueller report itself.¹³ Mueller said that releasing the summaries at that time “would alleviate the misunderstandings that have arisen and would answer congressional and public questions about the nature and outcome of our investigation.”

Barr refused Mueller’s request to release the summaries in the report. This left in place Barr’s mischaracterization of the report, which allowed President Trump to continue to make the false public claim that he had been totally exonerated by the report. Barr never corrected the President’s claim, even though he knew that the President was using his March 24 letter as the basis for making false public claims about the Mueller report.

Barr compounded his “spinning” of the Special Counsel report on April 18, 2019, hours before the public release of the redacted report, by holding a lengthy press conference in which he continued to mischaracterize the Mueller report. Once again, Barr inaccurately presented the

¹¹ M. Zapotosky and D. Barrett, “Mueller did not find the Trump campaign conspired with Russia, attorney general says,” *The Washington Post* (March 24, 2019).

¹² POLITICO staff, “10 episodes where Trump might have obstructed justice,” *POLITICO*, (April 4, 2019)

¹³ D. Barrett and M. Zapotosky, “Mueller complained that Barr’s letter did not capture ‘context’ of Trump probe,” *The Washington Post* (April 30, 2019).

report to the media and the public in a biased manner that served to support President Trump's false claims about the Mueller report, at the expense of what the report actually said.

In the April 18 press conference, Barr agreed with and repeated the President's "no collusion" refrain a number of times in saying that the report found there was "no collusion" between the Trump campaign and Russia. Barr knew, however, that the report explicitly said it was not addressing the question of "collusion." By using Trump's invented framing of the investigation as a question of "collusion," Barr knowingly mischaracterized the Mueller report, while validating Trump's repeated claims of "no collusion."

Collectively, Barr's actions and statements with regard to the Special Counsel report demonstrated his bias and his willingness to use the office of Attorney General to defend and publicly amplify the false positions taken by President Trump. Barr did this at the expense and credibility of the Mueller investigation and to the detriment of the American people's right to "fair and impartial justice."

C. On October 1, 2019, Democracy 21 filed a complaint with the DOJ Inspector General, calling for an investigation of Barr's handling of the Ukraine whistleblower complaint. This was yet another egregious example of how Barr used his office to protect the personal and political interests of President Trump in contrast to the interests of the Department and the American people, in a matter that eventually led to the impeachment of President Trump by the House of Representatives.

As the House has found, President Trump withheld military assistance to Ukraine authorized by Congress in order to pressure Ukraine to investigate a political opponent of Trump and thereby to illegally intervene in the 2020 presidential election. (The GAO recently found that President Trump broke the law in withholding these funds.¹⁴)

In a July 25, 2019 call with Ukraine President Zelensky, President Trump specifically mentioned Attorney General Barr five times as the person, along with Trump's personal attorney Rudy Giuliani, who would follow up with Zelensky in Trump's attempt to have Ukraine investigate and provide derogatory information about former Vice President Joe Biden.¹⁵ According to the White House transcript of the call, Trump said (emphases added):

"I would like to have *the Attorney General* call you or your people and I would like you to get to the bottom of it."

"I will ask him [Giuliani] to call you along with *the Attorney General*."

¹⁴ E. Cochrane, E. Lipton, and C. Cameron, "GAO Report Says Trump Administration Broke Law in Withholding Ukraine Aid," *The New York Times* (January 16, 2020).

¹⁵ D. Barrett, M. Zapotosky, C. Leonnig and S. Harris, "Trump offered Ukrainian president Justice Dept. help in an investigation of Biden, memo shows," *The Washington Post* (Sept. 26, 2020).

“There’s a lot of talk about Biden’s son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with *the Attorney General* would be great.”

“I will have Mr. Giuliani give you a call and I am also going to have *Attorney General Barr* call and we will get to the bottom of it.”

“I will tell Rudy and *Attorney General Barr* to call. . . .”

Thus, President Trump repeatedly told Ukraine President Zelensky to deal with Attorney General Barr on this highly improper matter. These quotes personally implicate Barr in a matter involving a gross abuse of presidential power.

Given the fact that Attorney General Barr was named by the President as a direct participant in this matter, Barr should have immediately, formally and publicly recused himself from any discussions and decisions regarding the Department’s handling of any aspect of this matter, including especially the whistleblower complaint itself. 28 C.F.R. § 45.2, *see also* 25 C.F.R. § 2635.502.

Since the whistleblower complaint stated that Attorney General Barr “appears to be involved” in the allegations made in the complaint, the Attorney General’s participation in or oversight of the Department’s handling of the complaint, at a minimum, “create[d] an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.” 28 C.F.R. § 45.2(b)(2).

According to published reports, however, Barr never consulted with DOJ ethics officials about whether he should recuse himself from matters dealing with the whistleblower complaint.¹⁶ Published reports also said that Barr was “generally knowledgeable” of discussions in the Justice Department about the complaint, thus indicating that he did not recuse himself in the Department’s handling of this matter.¹⁷

In response to a request from the Acting Director of National Intelligence (DNI) as to whether he should forward the whistleblower complaint to Congress, as required by statute, DOJ’s Office of Legal Counsel (OLC) concluded that the whistleblower complaint did not meet the statutory definition of an “urgent concern” and therefore that the Acting DNI did not have a statutory obligation to transmit the complaint to the Congress.¹⁸

¹⁶ D. Volz, W. Strobel and S. Hughes, “Whistleblower Complaint Alleges White House Effort to Conceal Details of Trump Call With Ukraine,” *The Wall Street Journal* (Sep. 26, 2019).

¹⁷ M. Zapotosky and D. Barrett, “Justice Dept. rejected investigation of Trump phone call just weeks after it began examining the matter,” *The Washington Post* (Sep. 25, 2019).

¹⁸ DOJ Office of Legal Counsel, Memorandum Opinion for the General Counsel Office of the Director of National Intelligence (Sept. 24, 2019).

Instead, the OLC determined that the complaint should be referred to the Department's Criminal Division for review of whether the actions described in the complaint constituted violations of the federal campaign finance laws. Following that referral, the Department then announced that the Criminal Division concluded that the complaint did not present any violations of federal law that warranted further investigation.¹⁹

By determining both that the law did not require the whistleblower complaint to be forwarded to Congress and that the complaint did not present any potential violations of federal law that warranted investigation, the Department of Justice took two separate actions that collectively had the result of shielding the complaint from public or congressional scrutiny and which, if successful, would have ensured that there would not be a full investigation of the allegations in the whistleblower complaint.

Although the actions taken by the Justice Department to prevent the complaint from reaching Congress and becoming public were unsuccessful, this does not mitigate the fact that the Attorney General improperly failed to recuse himself from the matter. While DOJ officials reportedly said Barr was not directly involved in decisions about the complaint, there is no way for the public to know what role Barr may have played, or how he might have directly or indirectly influenced Department officials by remaining "generally knowledgeable" of the matter. The resultant public doubt about Barr's role and the integrity of the Department's decision-making with regard to this sensitive matter is exactly why Barr should have immediately recused himself from the matter, and why Department rules required such recusal.

The President's repeated naming of Barr as a participant in the Ukraine matter, in his telephone conversation with President Zelensky, both directly implicated Barr in the President's gross abuse of power and also cast serious doubt on the institutional integrity and fairness of the Justice Department's actions with regard to the whistleblower complaint. These concerns were only magnified by Barr's wrongful failure to recuse himself immediately from any role in the Justice Department's handling of the matter. At a minimum, OPR should investigate the extent of Barr's involvement in the Department's actions on the whistleblower matter, the degree to which Barr was "generally knowledgeable" about the Department's actions and whether Barr violated the Department's rules by failing to recuse himself.

Conclusion

As noted repeatedly above, the core mission of the Department of Justice is "to ensure fair and impartial administration of justice for all Americans." In derogation of this mission, Attorney General Barr has in numerous matters of high visibility and importance acted in a biased manner to favor and promote the personal and political interests of President Trump over the fair and impartial administration of justice.

Barr challenged and undermined the Department's own Inspector General who, after a thorough and independent investigation, reached conclusions about the origin of the 2016 investigation of the Trump campaign that did not align with President Trump's view of, and

¹⁹ D. Barrett *et al.*, "Trump offered Ukrainian president Justice Dept. help in an investigation of Biden, memo shows," *The Washington Post* (Sept. 26, 2019).

interests in, the matter. Barr immediately criticized the Inspector General report which blunted its impact with the public and he continues to supervise a counter-investigation whose purpose apparently is to protect President Trump's personal and political interests in the matter.

Barr similarly acted in a biased manner by misrepresenting and thereby undermining the Special Counsel report and its criticisms of President Trump. Barr stage-managed the public release of the report and mischaracterized its conclusions, thereby setting a misleading public narrative about the findings of the report that would align with and be favorable to President Trump.

Barr has irresponsibly used inflammatory rhetoric about "spying" and "collusion" that echoed language used by President Trump in an effort to reinforce Trump's highly politicized and wrongful characterization of events.

Barr refused to recuse himself in the Department's involvement in the Ukraine whistleblower matter in which Barr was named by the President as one of his representatives in pursuing an improper investigation by Ukraine of a political opponent of the President.

This pattern of biased behavior by Barr is in stark conflict with his duty to ensure the "impartial administration of justice on behalf of all Americans." It is contrary to the mission, the norms, the rules, and the standards of conduct of the Justice Department and it seriously undermines the integrity and credibility of the Justice Department in the eyes of the American people.

Because you are responsible for safeguarding the institutional integrity of the Justice Department and the standards of behavior that govern its officials, Attorney General Barr's pattern of improper behavior warrants investigation and appropriate remedial action by your offices. Democracy 21 strongly calls on you to fulfill that responsibility.

Sincerely,



Fred Wertheimer
President

Copy to:

Michael Horowitz, Inspector General



May 7, 2019

Corey R. Amundson
Director
Office of Professional Responsibility
U.S. Department of Justice
Suite 3266
950 Pennsylvania Avenue N.W.
Washington, DC 20530

Dear Director Amundson:

Democracy 21 calls on the Office of Professional Responsibility (OPR) to inform Attorney General William Barr that he must recuse himself from any supervision of, or other involvement in, the [14](#) active Justice Department matters that stem from Special Counsel Robert Mueller's investigation into Russian interference in the 2016 presidential election. (See Report of the Office of Special Counsel at App. D-Sec. B.)

The basis for this recusal is Attorney General Barr's demonstrated bias in his handling of the report issued by Special Counsel Mueller, and Barr's public statements and congressional testimony, which have mischaracterized the Mueller report and misled the American people.

The Attorney General's actions and statements relating to the Mueller report have collectively demonstrated a pattern of favoritism to President Trump that has created the clear public impression that the Attorney General is serving more as President Trump's defense counsel than as the nation's chief law enforcement officer. This raises serious public credibility problems for the Attorney General and the Department of Justice (DOJ) if the Attorney General continues to serve as the final decision-maker in the 14 pending DOJ cases that stem from the Mueller investigation.

This is a matter that needs to be addressed by your office. The "[primary mission](#)" of the Office of Professional Responsibility is, among other things, to ensure "that DOJ attorneys perform their duties in accordance with the high professional standards expected of the nation's principal law enforcement agency." The "[mission](#)" of the Justice Department is "to ensure fair and impartial administration of justice for all Americans."

Attorney General Barr's actions regarding Special Counsel Mueller and his report have not complied with this core Justice Department mission and have not met the Department's "high professional standards." The Attorney General has publicly misrepresented the work of the

Special Counsel. He has publicly favored President Trump without basis at the expense of the Special Counsel and his report.

Given his record, the Attorney General does not have the public credibility to supervise the 14 investigations that flow from the work of the Special Counsel and should be required to recuse himself from playing any role in these investigations.

There are numerous examples of Attorney General Barr's actions and statements that have misled the public regarding the Mueller investigation and report.

In a four page [letter](#) describing the [Mueller report](#) that he sent to Congress and released to the public on March 24, 2019, Attorney General Barr mischaracterized the report and then left that mischaracterization as the only information available to Congress and to the public for almost a month prior to releasing the Mueller report.

Barr's March 24 letter allowed President Trump to claim, without contradiction by the Attorney General, that the Special Counsel report exonerated Trump on collusion and obstruction of justice. In fact, the report did not do so: it did not deal with collusion at all, but only with the legal issues of conspiracy and coordination, and it explicitly stated that it did not exonerate President Trump on obstruction of justice.

Instead the report said Mueller had accepted the position of the Justice Department's Office of Legal Counsel (OLC) that a sitting President could not be indicted. The [report](#) said:

Given the role of the Special Counsel as an attorney in the Department of Justice and the framework of the Special Counsel regulations, see 28 U.S.C. § 515; 28 C.F.R. § 600.7(a), this Office accepted OLC's legal conclusion for the purpose of exercising prosecutorial jurisdiction.

The strength of the case compiled by Special Counsel Mueller against Trump on obstruction of justice is illustrated by a [public statement](#) signed by more than 600 former Justice Department prosecutors who worked in every Republican and Democratic presidential administration since President Eisenhower. The prosecutors [state](#) that the evidence shown in the Mueller report would "result in multiple felony charges for obstruction of justice" for "any other person not covered by the Office of Legal Counsel policy against indicting a sitting President." This has raised further serious public credibility problems for Attorney General Barr and his role in these matters.

Barr's inaccurate description of the Mueller report on March 24 resulted in Mueller sending a [letter](#) to Barr three days later, on March 27, protesting Barr's characterization of the report. In his letter to Barr, Mueller said of Barr's memo:

The summary letter the Department sent to Congress and released to the public late in the afternoon of March 24 did not fully capture the context, nature and substance of this office's work and conclusions. [...] There is now public confusion about critical aspects of the results of our investigation. This threatens

to undermine a central purpose for which the Department appointed the Special Counsel: to assure full public confidence in the outcome of the investigations.

Mueller also urged Barr to release the summaries contained in the Special Counsel report that would have provided an accurate picture of the contents of the report. Mueller said that releasing the summaries “would alleviate the misunderstandings that have arisen and would answer congressional and public questions about the nature and outcome of our investigation.”

Barr refused Mueller’s request to release the summaries. This refusal left in place Barr’s mischaracterization of the report, which allowed President Trump to continue to publicly claim that he had been totally exonerated by the report. Barr never corrected the President’s untrue claim, even though he knew or should have known that the President was using his March 24 letter as the basis for making inaccurate public claims about the Mueller report.

Barr subsequently stated in public [testimony](#) to congressional committees on April 9 and April 10, 2019 that he did not know if Mueller and his office disagreed with the portrayal of the report contained in Barr’s March 24 letter.

However, given Mueller’s March 27, 2019 letter to him, Barr clearly did know at the time of his testimony that Mueller objected to his characterization of the report. Barr later [claimed](#) that in a telephone call on March 28, Mueller expressed concern only about the media coverage of Barr’s letter, not its substance. But Mueller clearly had done more than complain about press coverage by telling Barr in writing that Barr’s March 24 letter “did not fully capture the context, nature and substance” of his report and in failing to do so had caused “public confusion.”

On April 18, 2019, hours before the public release of the redacted report, Barr [held](#) a lengthy press conference in which he again mischaracterized the Mueller report. Once again the Attorney General presented the report to the media and the public in the light most favorable to President Trump at the expense of what the Mueller report actually said.

In the press conference, Barr repeated the President’s “no collusion” refrain a number of times in saying that the report found there was “no collusion” between the Trump campaign and Russia. However, Barr knew that the report explicitly said it was not addressing “collusion” and instead was dealing only with the legal issues of coordination and conspiracy. By using Trump’s invented framing of the investigation as a question of “collusion,” Barr knowingly mischaracterized the analysis in the report and validated Trump’s repeated claims of “no collusion.”

Finally, and perhaps most egregiously, Barr’s testimony before the Senate Judiciary Committee on May 1 was, as Benjamin Wittes, a respected observer of the Justice Department [wrote](#), “a disinformation campaign being run by the senior leadership of the Justice Department” that is “utterly beneath the United States Department of Justice.”

In his testimony, Barr inaccurately portrayed the President as having “fully cooperated” with the Mueller investigation, when this is obviously not true.

President Trump refused to be interviewed by the Special Counsel and instead provided written responses to limited questions submitted by the Special Counsel under terms demanded by Trump that prohibited the Special Counsel from asking any questions about obstruction. This was anything but full cooperation.

Furthermore, the Mueller report lays out in detail the multiple acts of apparent obstruction of justice that Trump engaged in to frustrate or derail the investigation. Whether these acts meet the criminal standard for prosecutable obstruction of justice, and more than 600 former prosecutors [state](#) they do, the acts certainly constitute efforts to obstruct the investigation and again demonstrate that Trump's conduct was anything but full cooperation.

For Barr to portray Trump's conduct as full cooperation is not only incorrect but also goes beyond his role as the head of the Justice Department, and instead places Barr in the position of serving as Trump's defender.

Barr was not credible in his [description](#) of Trump's instruction to former White House Counsel Donald McGahn to take steps to have Special Counsel Mueller removed on grounds of conflict of interest. In Barr's view, this was not an instruction to "fire" Mueller because removal for reasons of conflict would "presumably" lead to appointment of another Special Counsel while "firing" Mueller would not.

To the contrary, McGahn certainly believed Trump was directing him to fire Mueller, because he was ready to resign rather than carry out an instruction that he feared would be a [second Saturday Night Massacre](#), which involved the firing of Watergate Special Prosecutor Archibald Cox.

Barr's parsing of Trump's directive to remove Mueller as not really an effort to fire Mueller is sophistry. Another Special Counsel could have been appointed whether Mueller was removed for cause or otherwise, so the distinction drawn by Barr makes no sense. It also misses the point, which is that Trump wanted Mueller removed, whether a different Special Counsel would have then replaced him. Trump's directive to remove Mueller was an effort to obstruct the investigation, even if Mueller was going to be replaced by another Special Counsel, and there is no reason to think he would have been.

Barr's attempt to rationalize and defend what otherwise seems to be a plain effort at obstruction of justice has yet again created the public appearance that his fealty to Trump comes at the expense of his obligation to the Justice Department's stated [mission](#) "to ensure fair and impartial administration of justice for all Americans."

Collectively, these actions and statements by Attorney General Barr demonstrate a repeated willingness to use his role as Attorney General to amplify and defend unjustifiable positions of President Trump at the expense of the Mueller report. This is an inappropriate role for the nation's chief law enforcement official and fails to comply with his obligation, or the Department's obligation, to administer "fair and impartial" justice.

As noted above, Attorney General Barr currently supervises the [14](#) pending criminal investigations stemming from the Mueller investigation that have been referred by the Special Counsel to other Justice Department offices, such as the U.S. Attorney for the Southern District of New York. (See Report of the Office of Special Counsel at App. D-Sec. B.) In that role, Barr acts as the final decision-maker on these matters.

In light of Attorney General Barr's actions and statements described above that collectively create the appearance by the Attorney General of bias and favoritism to President Trump, Attorney General Barr should be required to recuse himself from any continuing involvement in the 14 pending matters that stem from the Mueller investigation. The Attorney General also should be required to recuse himself from any other Department matters that arise from the Mueller investigation or the 2016 Trump presidential campaign.

The Attorney General's demonstrated baseless favoritism towards President Trump has irreparably undermined Barr's credibility and compromised public confidence in his ability to continue to supervise the 14 pending matters in a fair and impartial manner.

Democracy 21 strongly urges you to exercise your responsibility as the Director of the Office of Professional Responsibility to enforce the Department of Justice's high standards of professional responsibility by taking prompt action to ensure that Attorney General Barr is recused from the 14 pending investigations that stem from the Special Counsel investigation.

Sincerely,



Fred Wertheimer
President

CC: Michael Horowitz
Inspector General
U.S. Department of Justice
Suite 4706
950 Pennsylvania Ave N.W.
Washington, DC 20530



June 11, 2020

Michael Horowitz
Inspector General
U.S. Department of Justice
Suite 4706
950 Pennsylvania Ave N.W.
Washington, DC 20530

Robin C. Ashton
Counsel
Office of Professional Responsibility
U.S. Department of Justice
Suite 3529
950 Pennsylvania Ave. NW
Washington, DC 20530

Re: Democracy 21 complaint requesting investigation of Attorney General Barr's appointment of U.S. Attorney John F. Bash to lead criminal investigation into "unmasking" of Michael Flynn

Dear Inspector General Horowitz and Counsel Ashton:

Democracy 21 requests that you conduct an investigation of Attorney General William Barr's appointment of U.S. Attorney John F. Bash to lead a criminal investigation into the "unmasking" of Michael Flynn by Obama Administration officials, and Bash's failure to recuse himself from the appointment in light of his apparent conflict of interest in doing so.

The appointment of Bash to lead the investigation fails to comply with the conflict of interest rules of the Justice Department and the Department's norms, standards and core mission to [provide](#) "fair and impartial justice for all Americans."

John Bash is the U.S. Attorney for the Western District of Texas. He was nominated by President Trump and sworn into that position on December 11, 2017. Prior to his appointment, Bash served in the White House as Special Assistant to President Trump and Associate White House Counsel.

An individual who has worked as a Trump Special Assistant and White House Counsel has no public credibility to head a criminal investigation about the "unmasking" of Michael Flynn by Obama Administration officials. President Trump has been attacking

the “unmasking” as part of his undefined and unexplained assertions about “Obamagate,” which appears to be nothing more than a label created for the purpose of damaging his presidential opponent, Joe Biden, who served as Vice President in the Obama Administration.

It is plainly inappropriate to name a former Special Assistant and Associate White House Counsel to Trump to conduct this politicized investigation, all the more so just months before a presidential election in which Trump is a candidate.

Attorney General Barr’s appointment of Bash was announced on May 28, 2020 by DOJ spokesperson Kerri Kupec as part of an appearance on Sean Hannity’s television show on Fox News. This is not the way such appointments are normally announced.

According to a [report](#) in *The Washington Post*, Kupec said, “The attorney general determined that certain aspects of unmasking needed to be reviewed.” According to [Politico](#), she added, “Obviously, we know that unmasking inherently isn’t wrong but certainly the frequency, the motivation and the reasoning behind unmasking can be problematic.”

“Unmasking” is the process by which a national security official can request that the identity of a person mentioned in an intelligence report be revealed to the official. According to [Politico](#), the practice is “common. For example, last year alone, U.S. spy agencies were asked 7,724 times to reveal the identities of Americans mentioned in those intercepts.”

Kupec, the Department’s spokesperson, characterized the new “unmasking” investigation initiated by Attorney General Barr as an offshoot of the Department’s ongoing investigation, also initiated by Barr, into the origins of the Justice Department’s Russia investigation. The ongoing investigation is being led by U.S. Attorney John Durham. According to [Kupec](#), “The attorney general determined that certain aspects of unmasking needed to be reviewed separately as a support to John Durham’s investigation.”

The Durham investigation into how the Obama Administration initiated the Russia investigation, and the new Bash investigation into the admittedly lawful and common practice of unmasking, are highly politicized and driven by President Trump. The first grew directly out of President Trump’s repeated, though discredited, claims that the Russia investigation was a “hoax” and that the Department engaged in a “witch hunt” of himself, his campaign and his associates. The second grew out of recent claims that Trump’s former national security adviser, Michael Flynn, was improperly investigated, prosecuted, and convicted by the Department. As [Politico](#) [notes](#),

Bash’s new investigative role with the Justice Department comes as the president and congressional Republicans have escalated their attacks on former senior officials within President Barack Obama’s administration who might have been involved in efforts that unmasked Michael Flynn, Trump’s first national security adviser.

The “unmasking” matter has gained further attention in the wake of the Department’s recent controversial [change of position](#) on the Flynn guilty plea, a decision that has [led](#) to “intense criticism from congressional Democrats and former Justice Department officials who charge that the attorney general is abusing the powers of his office to settle the president’s partisan vendettas.”

In order to defend the Department’s highly unusual action to seek dismissal of the Flynn charges post-conviction, President Trump and his supporters have challenged the origin of the Flynn prosecution. They have claimed that Flynn was unfairly targeted by officials in the Obama Administration who may have improperly unmasked his identity and then leaked his involvement in the conversations with a Russian diplomat, Sergey Kislyak, that eventually led to his indictment and conviction.

But according to press reports, the whole premise of this claim – that Flynn’s name was masked in the first place – may well be wrong. According to [The Washington Post](#),

It was the FBI, not the NSA, that wiretapped Kislyak’s calls and created the summary and transcript, the former officials said.

“When the FBI circulated [the report], they included Flynn’s name from the beginning” because it was essential to understanding its significance, said a former senior U.S. official, who spoke on the condition of anonymity to describe sensitive intelligence. “There were therefore no requests for the unmasking of that information.”

This set of allegations relating to Flynn, along with other unsubstantiated claims, has been packaged by President Trump under the specious and unexplained label of “Obamagate.” In this context, the Bash investigation into unmasking by Obama officials, initiated by Attorney General Barr, has an undeniably political and partisan cast.

The fact that Attorney General Barr has opened this investigation at all plays into Trump’s use of the pejorative “Obamagate” label and furthers Trump’s efforts to discredit the Flynn investigation by Obama Administration officials, despite the fact that Flynn pleaded guilty and admitted his guilt under oath on multiple occasions.

Any Department investigation of such a politically charged matter should not be opened at all just months before the presidential election, but if it is, the investigation must be undertaken in a manner that leaves no room for questioning the fairness, impartiality and credibility of the investigation or the investigators.

In this light, Attorney General Barr’s appointment of U.S. Attorney Bash to lead the investigation and Bash’s acceptance of the assignment is self-evidently improper, and in direct conflict with the Department’s core [mission](#) “to ensure fair and impartial administration of justice for all Americans.”

There is no way that an individual who worked in this Administration as Special Assistant and Associate White House Counsel for President Trump can have any public credibility in conducting part of a criminal investigation demanded by President Trump and being used by Trump for partisan political purposes to damage his opponent in the 2020 presidential election.

In selecting U.S. Attorney Bash, the Attorney General has chosen a prosecutor who creates the appearance that he has been chosen to serve the partisan re-election objectives of his former boss.

This selection is not only contrary to the core mission of the Department but also apparently fails to comply with DOJ conflict of interest rules.

The DOJ recusal regulations at 26 C.F.R. § 45.2 state:

- (a) no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with:
 - (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or
 - (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

28 CFR § 45.2(a). The regulation further defines the term “political relationship” to mean “a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof.” *Id.* § 45.2(c). A Special Assistant to the President and Associate White House Counsel is a principal adviser to the President.

Further, under 28 CFR § 42.5(b) any prosecutor falling within the scope of subsection 45.2(a) must have his participation in an investigation reviewed, and may participate in the investigation only if a supervisor determines in writing:

- ... after full consideration of all facts and circumstances, that:
 - (1) The relationship will not have the effect of rendering the employee’s service less than fully impartial and professional; and
 - (2) The employee’s participation would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.

As explained above, the allegation that Obama Administration officials engaged in improper unmasking of Flynn is part of President Trump's use of the pejorative and unexplained label "Obamagate," which Trump repeatedly wields in an attempt to damage the presidential campaign of his opponent, Vice President Biden.

This unmasking allegation is publicly associated with President Trump and his allies, and with Trump's efforts to damage and defeat Vice President Biden. Trump thus has a "specific and substantial" political interest in how the investigation of that allegation is undertaken and resolved, within the scope of the Justice Department's conflict of interest and recusal rules.

Thus, under DOJ conflict of interest rules, Bash has a "political relationship" with President Trump, and Trump has a "direct and substantial" interest in the conduct and outcome of the unmasking investigation. Therefore, Bash's participation in the unmasking investigation is precluded by subsection (a) of the Department's conflict of interest rules. Bash's participation is also precluded by subsection (b) of the same rules.

Bash's role as Special Assistant and Associate White House Counsel to President Trump means his service to lead the unmasking investigation is "less than fully impartial" within the scope of subsection (b)(1), particularly given the highly politicized context in which any investigation of the unmasking allegation would occur. For the same reason, Bash's involvement in the investigation would create "an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution," within the scope of subsection (b)(2).

Under DOJ conflict of interest rules, Barr should not have appointed Bash to lead this investigation and Bash should never have accepted the position. Bash is prohibited from conducting the "unmasking" investigation and must withdraw immediately from doing so.

The decision to appoint Bash, with his close ties to President Trump, to lead an investigation initiated just months before a presidential election – an investigation that serves Trump's partisan political aim of damaging his opponent in the coming presidential election – could not be more improper and in apparent violation of the Justice Department rules.

Democracy 21 strongly urges you to open an immediate investigation of this matter and to take appropriate action to have U.S. Attorney Bash comply with the Justice Department's recusal rules and to hold Attorney General Barr and Bash accountable for their apparent violation of the Department's conflict of interest rules.

Sincerely,



Fred Wertheimer
President

From: [OPR Complaints](#)
To: [Robertson, Jacqueline T \(OPR\)](#); [Lyles, Shamelle \(OPR\)](#)
Subject: FW: Sixth DOJ Complaint Against AG Barr, This Time for Appointing Former Trump White House Aide to Lead Criminal Investigation into Obama Administration 'Unmasking'
Date: Thursday, July 9, 2020 12:01:48 AM

Same as the last email. Do we store this under 201900383 or is it a new matter?

From: (b) (6)
Sent: Thursday, June 11, 2020 2:52 PM
To: OPR Complaints <OPR.COMPLAINTS@opr.usdoj.gov>
Cc: (b) (6)
Subject: Sixth DOJ Complaint Against AG Barr, This Time for Appointing Former Trump White House Aide to Lead Criminal Investigation into Obama Administration 'Unmasking'

Jeffrey Raggsdale, Director
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave, NW, Suite 3266
Washington, DC 20530-0001
Phone: 202-514-3365
Fax: 202-514-5050
Email: opr.complaints@usdoj.gov

Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue, N.W.,
Suite 4706
Washington, D.C. 20530-0001
Phone: (202) 514-3435
Fax: (202) 514-4001
<https://oig.justice.gov/about/contact.htm>

Re: Sixth DOJ Complaint Against AG Barr, This Time for Appointing Former Trump White House Aide to Lead Criminal Investigation into Obama Administration 'Unmasking'

Dear Director and Inspector General:

Democracy 21 filed a complaint today requesting an investigation and appropriate action against Attorney General William Barr for his "appointment of U.S. Attorney John F. Bash to lead a criminal investigation into the 'unmasking' of Michael Flynn by Obama Administration officials."

The complaint also requested an investigation of "Bash's failure to recuse himself from the appointment in light of his apparent conflict of interest in doing so."

This is the sixth Justice Department complaint filed by Democracy 21 against AG Barr since

April 2019. The previous complaints were filed on April 15, May 7, and October 1, 2019, and January 17 and February 27, 2020.

Attorney General Barr has repeatedly misused his office to advance the partisan political interests of President Trump.

AG Barr opened a criminal investigation into Obama Administration ‘unmasking’ just months before the presidential election, and appointed a former Trump Special Assistant and Associate White House Counsel to lead the investigation. This is just one more example of Barr’s misuse of his office to benefit Trump’s partisan political interests and of his failing to comply with the Justice Department’s core mission ‘to ensure fair and impartial administration of justice for all Americans.’

John Bash is the U.S. Attorney for the Western District of Texas. He was nominated by President Trump and sworn into that position on December 11, 2017. Prior to his appointment, Bash served in the White House as Special Assistant to President Trump and Associate White House Counsel.

An individual who has worked as a Trump Special Assistant and White House Counsel has no public credibility to head a criminal investigation about the “unmasking” of Michael Flynn by Obama Administration officials. President Trump has been attacking the “unmasking” as part of his undefined and unexplained assertions about “Obamagate,” which appears to be nothing more than a label created for the purpose of damaging his presidential opponent, Joe Biden, who served as Vice President in the Obama Administration.

It is plainly inappropriate to name a former Special Assistant and Associate White House Counsel to Trump to conduct this politicized investigation, all the more so just months before a presidential election in which Trump is a candidate.

The fact that Attorney General Barr has opened this investigation at all plays into Trump’s use of the pejorative “Obamagate” label and furthers Trump’s efforts to discredit the Flynn investigation by Obama Administration officials, despite the fact that Flynn pleaded guilty and admitted his guilt under oath on multiple occasions.

Any Department investigation of such a politically charged matter should not be opened at all just months before the presidential election, but if it is, the investigation must be undertaken in a manner that leaves no room for questioning the fairness, impartiality and credibility of the investigation or the investigators.

In this light, Attorney General Barr’s appointment of U.S. Attorney Bash to lead the investigation and Bash’s acceptance of the assignment is self-evidently improper, and in direct conflict with the Department’s core mission “to ensure fair and impartial administration of justice for all Americans.”

This unmasking allegation is publicly associated with President Trump and his allies, and with Trump’s efforts to damage and defeat Vice President Biden. Trump thus has a “specific and substantial” political interest in how the investigation of that allegation is undertaken and resolved, within the scope of the Justice Department’s conflict of interest and recusal rules.

Thus, under DOJ conflict of interest rules, Bash has a “political relationship” with President

Trump, and Trump has a “direct and substantial” interest in the conduct and outcome of the unmasking investigation.

Under DOJ conflict of interest rules, Barr should not have appointed Bash to lead this investigation and Bash should never have accepted the position. Bash is prohibited from conducting the “unmasking” investigation and must withdraw immediately from doing so.

The complaint also pointed out that the whole premise of the “unmasking” investigation “may well be wrong.”

It was the FBI, not the NSA, that wiretapped Kislyak’s calls and created the summary and transcript, the former officials said.

“When the FBI circulated [the report], they included Flynn’s name from the beginning” because it was essential to understanding its significance, said a former senior U.S. official, who spoke on the condition of anonymity to describe sensitive intelligence. “There were therefore no requests for the unmasking of that information.”

The decision to appoint Bash, with his close ties to President Trump, to lead an investigation initiated just months before a presidential election – an investigation that serves Trump’s partisan political aim of damaging his opponent in the coming presidential election – could not be more improper and in apparent violation of the Justice Department rules.

Open an immediate investigation of this matter and take appropriate action to have U.S. Attorney Bash comply with the Justice Department’s recusal rules and to hold Attorney General Barr and Bash accountable for their apparent violation of the Department’s conflict of interest rules.

Yours sincerely,

(b) (6)

cc:

Representative Steny Hoyer
House Majority Leader
Legislative Correspondence Team
1705 Longworth House Office Building
Washington DC 20515
Office: (202) 225-4131
Fax: (202) 225-4300

(b) (6)

(b) (6)

Re: Complaint: <https://democracy21.org/wp-content/uploads/2020/06/D21-letter-to-DOJ-IG-and-OPR-re-AG-Barr-and-US-Attorney-Bash-investigation-6-11-2020.pdf>

From: [Ragsdale, Jeffrey \(OPR\)](#)
To: [Lyles, Shamelle \(OPR\)](#); [Robertson, Jacqueline T \(OPR\)](#)
Subject: FW: lawsuit attached naming Barr, Horowitz, Wray
Date: Wednesday, August 12, 2020 2:25:03 PM
Attachments: [FINAL 2020 IF AF Campaign Lawsuit.pdf](#)

Another complaint. I have a vague recollection he may have already filed a similar complaint.
Thanks.

From: [REDACTED] (b) (6)
Sent: Wednesday, August 12, 2020 10:45 AM
To: Ragsdale, Jeffrey (OPR) <Jeffrey.Ragsdale@opr.usdoj.gov>; opr.complaints@usdoj.gov
Subject: lawsuit attached naming Barr, Horowitz, Wray

[REDACTED] (b) (6) NOW OWNS [REDACTED] (b) (6)
and [REDACTED] (b) (6)

Mr. Ragsdale:

The evidence is undeniable. You have 24 hours to tell me what OPR intends to do about this.
Failure to respond will result in legal consequences.

[REDACTED] (b) (6) (b) (6)
(941)-201- [REDACTED] (b) (6)
[REDACTED] (b) (6)

[REDACTED] (b) (6)
(941)-201- [REDACTED] (b) (6)
[REDACTED] (b) (6)

LEGAL NEWS & NEW WEBSITE

[REDACTED] (b) (6)

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Thank you for your cooperation.

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA
(Minus Confidential Edits)**

(b) (6)
Named Plaintiff - Class RICO Civil Conspiracy
And, As Private Attorney General
on behalf of himself and the General Public

Plaintiffs,

CIVIL Action No. _____

v.

DONALD J. TRUMP (individual capacity)
JOE BIDEN (individual capacity)
BARACK OBAMA (individual capacity)
HILLARY CLINTON (individual capacity)
BERNIE SANDERS (individual capacity)
ELIZABETH WARREN (individual capacity)
KAMALA HARRIS (individual capacity)

MITCH MCCONNELL (individual capacity)
NANCY PELOSI (individual capacity)
STENY HOYER (individual capacity)
ALEXANDRIA OCASIO CORTEZ (individual capacity)
ILHAN OMAR (individual capacity)
AYANNA PRESSLEY (individual capacity)
RASHIDA TLAIB (individual capacity)
ADAM SCHIFF (individual capacity)
JERRY NADLER (individual capacity)

TOM PEREZ (individual capacity)
RONNA MCDANIEL (individual capacity)

HOUSE GIFT SHOP
BANK OF AMERICA
(b) (6) (individual capacity)
BANK OF AMERICA MERCHANT SERVICES
FISERV
CHASE PAYMENTECH

JEROME POWELL (individual capacity)
BILL BARR (individual capacity)
(b) (6) (individual capacity)
GUSTAV W. EYLER (individual capacity)
STEVE MNUCHIN (individual capacity)
RICHARD CORDRAY (individual capacity)
MICK MULVANEY (individual capacity)
KATHLEEN KRANINGER (individual capacity)
(b) (6) (individual capacity)
JAMES E. TRAINOR III (individual capacity)
STEVEN T. WALTHER (individual capacity)
ELLEN L. WEINTRAUB (individual capacity)
CAROLINE C. HUNTER (individual capacity)
MATTHEW S. PETERSEN (individual capacity)
LEE E. GOODMAN (individual capacity)
LISA J. STEVENSON(individual capacity)
(b) (6) (individual capacity)
MICHAEL E. HOROWITZ (individual capacity)
CHRISTOPHER WRAY (individual capacity)

PAYPAL
ACTBLUE
WINRED TECHNICAL SERVICES LLC
JAMS

MASTERCARD INC.
VISA INC.
DISCOVER FINANCIAL SERVICES
AMERICAN EXPRESS COMPANY

(1) DOE DEFENDANTS (individual capacity, to possibly include Biden's VP)
(52) - Defendants.

COMPLAINT
(Civil RICO Conspiracy Class Claims with jury demand; and,
Action Pursuant to the District of Columbia Consumer Protection Procedures
Act for Damages with jury demand)

INTRODUCTION

1. [REDACTED] (b) (6) Plaintiff), as Class Plaintiff, and, Private Attorney General, alleges violations of federal law and unlawful trade practices pursuant to the District of Columbia (DoC) Consumer Protection Procedures Act (“DCCPPA”) D.C. CODE ANN. § 28-3901 et seq. Plaintiff files this Complaint with jury demand for statutory damages for “injur[ies]” and “threat of injury” on behalf of himself; and, Plaintiff files on behalf of the general public (“GP”) against DONALD J. TRUMP, JOE BIDEN, BARACK OBAMA (“BO”), HILLARY CLINTON (“HC”) [BO & HC - equitable tolling of the four-year limitations period in civil RICO based on fraudulent concealment, continuing tort or conspiracy], BERNIE SANDERS, ELIZABETH WARREN, KAMALA HARRIS, MITCH MCCONNELL, NANCY PELOSI, STENY HOYER, ALEXANDRIA OCASIO CORTEZ, ILHAN OMAR AYANNA PRESSLEY, RASHIDA TLAIB, ADAM SCHIFF, JERRY NADLER (collectively “Politicians”) [The Speech or Debate Clause doctrine of legislative immunity extends only to a Congressman’s / Senator’s “purely legislative” activities and NOT to non-legislative, official, or political activities [SCOTUS citations omitted}]; TOM PEREZ (“DNC”), RONNA MCDANIEL (“RNC”); HOUSE GIFT SHOP; BANK OF AMERICA (“BOA”), [REDACTED] (b) (6), BANK OF AMERICA MERCHANT SERVICES (collectively “BOA Defs”); FISERV; CHASE PAYMENTECH; JEROME POWELL, BILL BARR, [REDACTED] (b) (6), GUSTAV W. EYLER, STEVE MNUCHIN, RICHARD CORDRAY, MICK MULVANEY, KATHLEEN KRANINGER,

(b) (6), JAMES E. TRAINOR III, STEVEN T. WALTHER, ELLEN L. WEINTRAUB, CAROLINE C. HUNTER, MATTHEW S. PETERSEN, LEE E. GOODMAN, LISA J. STEVENSON, (b) (6) MICHAEL E. HOROWITZ, CHRISTOPHER WRAY (collectively “Fed Defs”); PAYPAL, ACTBLUE, WINRED TECHNICAL SERVICES LLC, JAMS (collectively “Processors”); MASTERCARD INC.; VISA INC.; DISCOVER FINANCIAL SERVICES; AMERICAN EXPRESS COMPANY; and, (1) DOE DEFENDANT. All Defendants collectively “Co-conspirators”, “CoCs”, or, “Defendants”). GP is defined as any person who made a donation to one or more Politicians using a personal MasterCard, Visa, Discover or American Express credit card (collectively “CCs”); or, had a USA issued personal CC transaction processed, or claim arbitrated by a named “Processor” anywhere in the world; or, used a BOA issued personal MasterCard or VISA credit card anywhere in the world.

NATURE OF ACTION

2. This case is about the largest criminal enterprise in the history of the United States. The Interchange Fee (IF) Assessment Fee (AF) (collectively “Fees”) conspiracy (Conspiracy). It’s impossible to name all the participants. Plaintiff elected to focus on a motive greater than greed, that being retaining POWER; and, those CoCs deserving to be named. The named Defendants are all connected to the Conspiracy, acting in concert together, and concealing the Conspiracy. BOAMS is a merchant services company owned by partners Bank of America and Fiserv. Bank of America is the “King Pin” of the racketeering enterprise. Major CC issuing banks, BOA excluded, hide behind arbitration provisions; however, all the major CC issuing banks are already defendants in upcoming federal false claims act lawsuits controlled by Plaintiff in his

established standing as “Relator” where the banks have no arbitration defense. JP Morgan Chase, who owns defendant Chase Paymentech, recently reinstated arbitration for its credit cards because of Plaintiff.

3. The illegal Fees have **never** been disclosed in accordance with the laws that govern them, since their inception. Fees are required to be disclosed by the Issuing Bank for all CCs pursuant to **15 U.S.C. § 1637(a)(5)** [before the account is opened]; **Title 15 U.S.C. § 1637 (c)(4)(A)(ii); 12 CFR 226.6(b)(2)(F)(iv)** [in all solicitations and applications] (collectively “TILA”). A federal Judge, in a published opinion, has already declared that a conspiracy exists regarding the IF; and, the U.S. Supreme Court has already interpreted the TILA statutes in question with no conflict as above. The original IF Conspiracy [AF came later] called for the IF to be hidden from the CC cardholder. Because the IF is not disclosed as required it is illegal, and required to be refunded with interest. The CC Cardholder is unaware their money is being stolen. Defendant Merchants launder the stolen IF back to the issuing bank who gets the IF, and the AF to the respective credit card company who gets the AF.

4. Plaintiff, who is acting as named plaintiff in the RICO class action; and, *Private Attorney General* (PAG) on behalf of himself and the general public, respectfully brings this right of action before the Court pursuant to 18 U.S.C. §1961 et seq. (RICO). The U.S. Department of Justice (DOJ) defines money laundering as follows:

Section 1956(a) defines three types of criminal conduct: domestic money laundering transactions (§ 1956(a)(1)); international money laundering transactions (§ 1956(a)(2)); and undercover “sting” money laundering transactions (§ 1956(a)(3)). See this Manual at 2182. To be criminally culpable under 18 U.S.C. § 1956(a)(1), a defendant must conduct or attempt to conduct a financial transaction, knowing that the property involved [stolen IF] in the financial transaction represents the proceeds of some unlawful activity.

5. Plaintiff is acting as Private Attorney General under the District of Columbia (DoC) Consumer Protection Procedures Act (“DCCPPA”), D.C. CODE ANN. § 28-3901 et seq. 1 Upon information and belief (including the investigation by Plaintiff and review of publicly available information) as to all other matters. Plaintiff alleges as follows:

6. It is unlawful for anyone employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt. 18 U.S.C.A. § 1962(c) (West 1984).

7. All Defendants are co-conspirators who willingly joined the Conspiracy, which is an association-in-fact Racketeering Enterprise [U.S. Sup. Ct., *Boyle v United States* (07-1309)]. The statute of limitations under RICO has not begun for some Defendants, and tolled for others, the racketeering acts pose a threat of continued racketeering activity that damages well over a 100 million U.S. Consumers, and the Conspiracy is ongoing. Politicians, who could fix the problem and still accept credit cards are buried in the “Deep State.”

8. Some Defendants may attempt to use arbitration as a defense but their arbitration provisions are void based on “fraud” and violations of Plaintiff and GPs federally protected rights [citations omitted]. Plaintiff can void any alleged arbitration provision.

1. The October 1, 2000 amendments to the DCCPPA, the accompanying legislative history, and subsequent pro se litigated cases, make it crystal clear that the DCCPPA grants every plaintiff who files suit under the DCCPPA standing as a Private Attorney General. See William B. Rubenstein, On What A ‘Private Attorney General’ Is – And Why It Matters, 57 Van L. Rev. 2129, 2143-2150 (2004); *Wexler v. Brothers Entertainment Group, Inc.*, 457 N.W. 2nd 218 (Minn. App. 1990) (pro se attorney is entitled to attorney’s fees if he prevails on a consumer protection claim because he is acting as a private attorney general). A plaintiff need not show he was personally damaged, misled or deceived,” D.C. Code § 28-3904, by an unfair trade practice to recover statutory damages in a fixed amount. D.C. Code § 28-3904 (k)(1). In *Grayson v. AT&T Corp* (en banc), Nos. 07-CV-1264 & 08-CV-1089, --- A.3d ---, 2011 WL 165843 (D.C. 2011). It was established by the en banc appellate court that “a plaintiff must suffer ‘actual or threatened injury’ from the alleged unlawful practice to have standing to assert a DCCPPA claim.”

9. As to limitation of liability language in various defendant terms, there is misconduct that “smacks of intentional wrongdoing”, and/or involves “gross negligence” displaying a reckless indifference. There is “wrongful conduct” sufficient to vitiate the limitations clause[s]. Plaintiff can void any limited liability provisions.

10. Plaintiff’s claims under the DCCPPA are within the DCCPPA statute of limitations. As for all damages being sought connected to victims of the Conspiracy, they are governed by the DoC Discovery Harm Rule.

11. All Defendants sanctioned Policies whereby they conspired / aided and abetted the theft from CC Cardholders, said illegal Fees. The illegal Fees are contained in every CCs’ transaction. Plaintiff warned all Defendants. Regulators concealed the Conspiracy [documented].

12. Defendants cannot avoid high stakes litigation, as they invited it. PAG lawsuits may involve high stakes. Defendants may face hefty statutory penalties. “[B]ecause the states are independent sovereigns in our federal system, we have long presumed that Congress does not cavalierly pre-empt state law causes of action.”). *Medtronic, Inc. v. Lohr*, 518 U.S. 470 (1996).

13. MasterCard, Visa, American Express & Discover corporations (“MOs”) set the Fees for their respective CCs. MOs charge the merchant who accepts the CC, which IF varies depending on the category of goods & services; AF is a set amount. The Merchant passes them on to the CC cardholder, sometimes as a surcharge / convenience or service fee. The AF is usually a direct pass through to the cardholder.

14. The Fees are charged to the CC because they are “imposed” for using the CC. The Fees are an admitted [MOs] transaction charge [undeniable, not a finance charge] listed as revenue.

15. All claims are connected to the criminal enterprise started by Bank of America for BankAmericard, rolled into VISA, Mastercharge / MasterCard. Discover and American Express joined], therefore, it is appropriate to include the RICO claims with the DCCPPA claims.

“The Supreme Court has stated that [t]ransaction' is a word of flexible meaning. It may comprehend a series of many occurrences, depending not so much upon the immediateness of their connection as upon their logical relationship.’ *Moore v. N.Y. Cotton Exch.*, 270 U.S. 593, 610, 46 S.Ct. 367, 70 L.Ed. 750 (1926). ‘This inquiry is flexible and attempts to analyze whether the essential facts of the various claims are so logically connected that considerations of judicial economy and fairness dictate that all the issues be resolved in one lawsuit.’ *Computer Assocs. Int'l v. Altai Inc.*, 893 F. 2d 26, 29 (2d Cir.1990) (internal citations omitted). *Feld Entertainment Inc. v. American Society for the Prevention of Cruelty to Animals*, 873 F. Supp. 2d 288 (D.D.C. 2012).”

16. Politicians are all “Merchants”. All Defendants are connected to and have business connections to the DoC. Merchants are on the supply side. “Goods and services... any and all parts of the economic output of society.” Merchant is a person connected with the “supply” side of a consumer transaction. Merchant is not limited to the actual seller of the goods or services complained of, he must be a “person” [DC Code 28-3901] connected with the “supply” side of a consumer transaction. Committee Report, at 13. *Howard*, 432 A.2d at 709 (quoting Council of the District of Columbia, Comm. on Pub. Servs. & Consumer Affairs, Rep. on Bill 1-253, at 13 (Mar. 24, 1976)). [Also see UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT Argued January 18, 2011, Decided March 1, 2011, No. 09-7095 BETTY GENE ALI, APPELLEE v. RICHARD L. TOLBERT, APPELLEE ANTHONY G. NOBLE, APPELLANT].

DCCPPA CLAIMS

17. The DCCPPA must be “construed and applied liberally to promote its purpose.” *Grayson*, 15 A.3d at 244-45 (quoting D.C. Code § 28-3901 (c) (2012 Repl.)).

18. The DCCPPA claims are Not a class action lawsuit, however, Plaintiff and co-counsels will comply with Superior Court Rule of Civil Procedure Rule 23 if required. As the federal court said in *FUND V. HORMEL FOODS CORP.*, Civil Action No. 16-1575 (CKK) (D.D.C. Apr. 5, 2017), the trial court in *Superior Court of D.C., Civil Division* Case No. 2011CA006829 B, determined that an action for damages under the DCCPPA on behalf of the general public must comply with Superior Court Rule of Civil Procedure 23 and the general public must be certified for the purpose of paying damages. The District of Columbia Court of Appeals affirmed. *Rotunda v. Marriott Int'l, Inc.*, 123 A.3d 980 (D.C. 2015). *Karl A. Racine, Attorney General for the District of Columbia, Todd S. Kim, Solicitor General, Loren L. AliKhan, Deputy Solicitor General, Bennett Rushkoff, Chief, Public Advocacy Section, and Nicholas Bush, Assistant Attorney General*, filed a brief amicus curiae on behalf of the DoC in *Rotunda* disagreeing as to Rule 23. The U.S. Crt of Appeals 4th Cir. also disagrees (citation omitted).

19. Any DCCPPA Defendant customer agreement “choice of law” defense is moot because all customer contracts in question are void based on fraud in the inducement.

20. To successfully collect damages on behalf of himself and the general public under the DCCPPA Plaintiff is not required to prove damages, or that anyone was misled or deceived [§ 28–3904], only demonstrate one or more unlawful trade practices pled under the DCCPPA.

FEDERAL CIVIL RICO CLASS ACTION CLAIMS - 18 U.S.C. §1961 et seq.

21. Plaintiff brings RICO conspiracy claims against all Defendants. (RICO conspiracy Defendants collectively hereinafter “RICO Defendants”).

22. Plaintiff is alleging a “concrete and actual” injury that was “directly and proximately” caused by RICO Defendants conduct. Plaintiff will be seeking monetary damages under RICO

against all RICO Defendants for conspiring with all other Defendants and un-named co-conspirators, as RICO Defendants are liable for the acts of all their co-conspirators. Like the DCCPPA claims, there is no choice of law conflict under the RICO claims because all CC customer contracts are void because a material fact that was represented to Plaintiff and all Cardholders (Victims) induced the Victim to act and that material fact was false, and, the CC Issuing bank knew it was false. Plaintiff and each Victim relied on representation that all charges had been disclosed on the CC application.

23. Professional service providers such as law firms and attorneys are not immune from liability under the Racketeer Influenced and Corrupt Organizations Act. Courts have interpreted and applied RICO's broad prohibitions liberally, leaving professionals susceptible to criminal prosecutions and civil actions for treble damages.

24. It is not necessary for the RICO conspiracy defendant himself to conduct the affairs of an enterprise; it is sufficient for conviction or liability that he merely agrees with a defendant who is an operator or manager to conduct the affairs of the enterprise through a pattern of racketeering activity.

25. During the existence of a conspiracy, each member of the conspiracy is legally responsible for the crimes of fellow conspirators.” *Pinkerton v. United States*, 328 U.S. 640, 646–47, 66 S. Ct. 1180, 90 L. Ed. 1489 (1946)). A conspirator is only liable for the acts of co-conspirators “until the conspiracy accomplishes its goals or that conspirator withdraws.” *United States v. Brewer*, 983 F.2d 181, 185 (10th Cir.1993) (citing *Hyde v. United States*, 225 U.S. 347, 369, 32 S. Ct. 793, 56 L. Ed. 1114 (1912)). “In order to withdraw from a conspiracy an individual must take affirmative action, either by reporting to the authorities or by communicating his intentions to the co-conspirators.” *United States v. Powell*, 982 F.2d 1422,

1435 (10th Cir.1992). “Mere cessation of one's participation in a conspiracy is insufficient to demonstrate withdrawal.” *United States v. Hughes*, 191 F.3d 1317, 1321 (10th Cir.1999).

26. Furthermore, a conspiracy does not automatically end when the object of the conspiracy becomes impossible to achieve, even when the conspirators are unaware that the government has intervened and "defeated" the conspiracy's object. Impossibility does not terminate conspiracy because the essence of the conspiracy is an agreement to commit an unlawful act and such agreements are by themselves dangerous, even where no substantive crime ensues. *US v Recio*, 537 US 270; 122 S. Ct 819; 154 LEd2d 744 (2003).

27. The liability of individual conspirators continues on from the time they joined the plot until it ends or until they withdraw. Democrat politicians are named in similar upcoming lawsuits controlled by Plaintiff. The want of an individual's continued active participation is no defense as long as the underlying conspiracy lives and he has not withdrawn. An individual who claims to have withdrawn must show either that he took some action to make his departure clear to his co-conspirators or that he disclosed the scheme to the authorities.

28. All RICO Defendants have committed multiple overt acts in furtherance of the Conspiracy. The most obvious overt act being “concealment.” None of them have immunity.

29. Establishing that the members of the enterprise operated together in a coordinated manner in furtherance of a common purpose may be proven by a wide variety of direct and circumstantial evidence including, but not limited to, inferences from the members' commission of similar racketeering acts in furtherance of a shared objective, financial ties, coordination of activities, community of interests and objectives, interlocking nature of the schemes, and overlapping nature of the wrongful conduct. Moreover, such evidence of the existence of the

charged enterprise may be based on uncharged unlawful conduct. It is important to note that a single enterprise may be found even where members of an association-in-fact enterprise form opposing factions. Every court of appeals to address the question has agreed that a RICO enterprise may consist of an association-in-fact of legal entities, as well as an alliance of legal entities and individuals. [See e.g., *Ouwinga v. Benistar 419 Plan Services, Inc.*, 694 F.3d 783, 793-94 (6th Cir. 2012) (insurance companies, attorneys, and insurance agents created an association-in-fact enterprise); *United States v. Begrin*, 650 F.3d 257 (3d Cir. 2011) (indictment adequately alleged that enterprise was association-in-fact of five individuals and four corporations); *Odom*, 486 F.3d at 547-553 (two corporations); *Living Designs, Inc. v. E.I. Dupont de Nemours*, 431 F.3d 353, 361 (9th Cir. 2005) (a corporation, law firms retained by the corporation, and individuals); *Cianci*, 378 F.3d at 79-85 (the city of Providence, its office of Mayor and other agencies, and individuals); *Najjar*, 300 F.3d at 484-85 (a sole proprietorship, corporation and individuals); *Goldin Indus., Inc.*, 219 F.3d 1271, 1275-77 (11th Cir. 2000) (several corporations and individuals); *United States v. Parise*, 159 F.3d 790, 794-95 (3d Cir. 1998) (enterprise consisted of four organizations); *United States v. London*, 66 F.3d 1227, 1243-44 (1st Cir. 1995) (two or more legal entities); *United States v. Console*, 13 F.3d 641, 652 (3d Cir. 1993) (law firm and medical practice); *United States v. Blinder*, 10 F.3d 1468, 1473 (9th Cir. 1993) (six corporations); *United States v. Butler*, 954 F.2d 114, 120 (2d Cir. 1992) (broad enterprise consisting of Local 200, the pension funds, and Local 362); *United States v. Collins*, 927 F.2d 605 (6th Cir. 1991) (Table) (group of corporations); *United States v. Masters*, 924 F.2d 1362, 1366 (7th Cir. 1991) (law firm, two police departments, and three individuals who are defendants); *United States v. Stolfi*, 889 F.2d 378, 379-80 (2d Cir. 1989) (local union and its welfare benefit fund); *United States v. Feldman*, 853 F.2d 648, 655-59 (9th Cir. 1988)

(association of five corporations and two individuals, including the defendant); *United States v. Perholtz*, 842 F.2d 343, 352-54 (D.C. Cir. 1988) (group of individuals, corporations, and partnerships); *United States v. Thevis*, 665 F.2d 616, 625-26 (5th Cir. 1982) (association of corporations and individuals); *United States v. Huber*, 603 F.2d 387, 393-94 (2d Cir. 1979) (association comprised of a combination of “illegal” entities and a group of individuals associated in fact); *United States v. Campanale*, 518 F.2d 352, 357 n.11 (9th Cir. 1975) (enterprise composed of two corporations and a union); *United States v. Pryba*, 674 F. Supp. 1504, 1508 (E.D. Va. 1987) (enterprise could consist of group of individuals and corporations); *Snider v. Lone Star Art Trading Co.*, 659 F. Supp. 1249, 1253 (E.D. Mich. 1987) (group of individuals and corporations proper enterprise)]. As one court has noted, the definition of the term “enterprise” is of necessity a shifting one, given the fluid nature of criminal associations. [See e.g., *United States v. Swiderski*, 593 F.2d 1246, 1249 (D.C. Cir. 1978)].

30. In *Nat’l Org. for Women, Inc. v. Scheidler*, 510 U.S. 249 (1994) SCOTUS held that the RICO statute contains no economic motive requirement, thereby overruling the district court's holding that a profit-seeking motive for either the RICO enterprise or predicate acts was required, and reversing the district court's dismissal of the plaintiff's civil RICO claim. In reaching this decision, the Supreme Court observed that the enterprise in Sections 1962(a) and (b) might “very well be a profit-seeking entity,” *id.* at 259, but that the RICO statute does not mandate that either the enterprise or the racketeering activity have an economic motive. Rather, RICO requires only that the entity be acquired through the use of illegal activity or by money obtained from illegal activities.

31. The RICO statute's forfeiture provisions are in play for prosecutors. 18 U.S.C. §§ 1963(a)(1)-(3), are extremely comprehensive and authorize the forfeiture of not only proceeds and interests obtained by the defendant from any racketeering activity but also all of the defendant's various interests in the charged "enterprise. (forfeiture of "proceeds" covers gross receipts of the enterprise, not merely profits).

32. 18 U.S.C. § 1964(c) creates a private right of action for treble damages provides:

Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

Plaintiff is alleging that "persons" [All Defendants] acted in concert and associate with the criminal enterprise established and operated by Defendant MOs and their member issuing banks. All Defendants are associated with the criminal enterprise whereby they conduct and/or participate, and/or cover-up the conduct of the criminal enterprise's affairs by protecting and running interference that allows the criminal enterprise to operate through a pattern of racketeering activity (*i.e.*, two or more predicate acts) directed toward Plaintiff and other CC credit card customers. Merchants willingly and knowingly joined the Conspiracy.

33. Plaintiff is alleging that as a Victim of said predicate acts, and overt acts by RICO Defendants he and the class have suffered private injury from 18 U.S.C. § 1962 criminal violations, [bank fraud, mail fraud & wire fraud] which is compensable under § 1964(c). Bank fraud [18 U.S.C. § 1344], mail fraud [18 U.S.C. § 1341] and wire fraud [18 U.S.C. § 1343] is being committed directly and/or indirectly, and/or sanctioned by all Defendants.

JURISDICTION and VENUE

34. This Court has personal jurisdiction over the Defendants because they all do business in the DoC. Politicians', RNC & DNC websites qualify as "storefronts" in the DoC because they engage in continuous and systemic business activities with DoC residents. *District of Columbia v. Facebook Inc.*, D.C. Super. Ct., No. 2018 CA 008715 B, 7/25/19.

35. This court has subject matter jurisdiction to hear Plaintiff's claims 28 U.S.C. §§ 1331 & 1332, as there exists diversity of citizenship among the parties hereto and the amount of controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

36. This Court has further jurisdiction over Plaintiff's RICO claims 18 U.S.C. § 1961 et seq. Further jurisdiction falls under 42 U.S.C. §§ 1985(3), 1986. FED. R. CIV. P. 4(k)(2).

37. The Court has supplemental jurisdiction over Plaintiffs' DoC law claims under 28 U.S.C. § 1367.

38. Venue in this District is proper under 28 U.S.C. § 1391.

CLASS ALLEGATIONS

39. Plaintiff brings his RICO class action claims pursuant to the provisions of Rules 23(a), and (b)(3) of the Federal Rules of Civil Procedure, on behalf of himself and the following potential class: Unspecified number of CC Cardholders who were subjected to illegal non-disclosed IFs on one or more of their CCs.

40. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim.

41. This action has been brought and may be properly maintained on behalf of the Victims and any potential subclasses under Federal Rule of Civil Procedure 23.

42. Numerosity. Federal Rule of Civil Procedure 23(a)(1): The members of the *IF Victims' Class* are so numerous and geographically dispersed that individual joinder of all *Victims' Class* members is impracticable. Plaintiff knows that there are not less than 600 members of the *Victims' Class*. The precise number of Class and Subclass members is unknown to Plaintiff, but may be ascertained through MOs and BOA. *Victims' Class* members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

43. Commonality and Predominance: Federal Rule of Civil Procedure 23(a)(2) and 23(b)(3): This action involves common questions of law and fact, which predominate over any questions affecting individual Class members, including, without limitation:

a) Whether Defendants engaged in the conduct alleged herein; b) Whether Plaintiff and the other Class members are entitled to equitable relief, including, but not limited to, restitution; and c) Whether Plaintiff and the other Class members are entitled to damages and other monetary relief and, if so, in what amount.

44. Typicality: Federal Rule of Civil Procedure 23(a)(3): Plaintiff's claims are typical of the other Class members' claims because, among other things, all Class members were comparably injured through Defendants' wrongful conduct as described above.

45. Adequacy: Federal Rule of Civil Procedure 23(a)(4): Plaintiff is an adequate Class representative because his interests does not conflict with the interests of the other members of the *Victims*’ Class and subclasses he seeks to represent; Plaintiff has retained counsel competent and experienced in complex class action litigation to represent the Class.

46. Plaintiff intends to prosecute this action vigorously. The *Victims*’ Class interests will be adequately protected by Plaintiff and his co-counsels who are experienced in complex class cases.

47. Superiority: Federal Rule of Civil Procedure 23(b)(3): A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. It would be impracticable for the members of the *Victims*’ Class to individually seek redress for Defendants and all other co-conspirators’ wrongful conduct.

48. Even if *Victims*’ Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

PARTIES

49. [REDACTED] (b) (6). [Plaintiff] is a U.S. Citizen, Victim of the Conspiracy, and qualified to be PAG. Plaintiff has standing directly and by an assignment of legal claims from CC Cardholders pursuant to D.C. Code § 28-2304, and/or *Sprint Communications Co. LP v. APCC Services Inc.*, 554 U.S. 269, (2008).

50. (52) **Defendants.** Paragraphs 50 - 101 describes the overt acts committed by all Defendants.

DISTRICT of COLUMBIA LEGAL FRAMEWORK

102. It is a violation of District of Columbia law, and therefore an unlawful trade practice under the DCCPPA, id., “whether or not any consumer is in fact misled, deceived or damaged. The DCCPPA is extraterritorial. 2

§ 28-3904. Unlawful trade practices pled herein -

- (a) represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;
- (b) represent that the person has a sponsorship, approval, status, affiliation, certification, or connection that the person does not have;
- (d) represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another;
- (e) misrepresent as to a material fact which has a tendency to mislead;
- (e-1) [r]epresent that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;
- (f) fail to state a material fact if such failure tends to mislead;
- (f)-(A) [credit collection]
- (f-1) [u]se innuendo or ambiguity as to a material fact, which has a tendency to mislead;
- (h) advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered;
- (x) sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law [FTC Act];
- (x-1 Through x-15) sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law [multiple federal violations];
- (26) UNCONSCIONABLE CONDUCT
- (27) NEGLIGENCE
- (28) BREACH OF EXPRESS WARRANTY -
- (29) FRAUDULENT CONCEALMENT
- (30) NEGLIGENT MISREPRESENTATION
- (31) FRAUDULENT MISREPRESENTATION
- (32) NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

2. *Shaw et al v. Marriott Intern., Inc.*, 474 F. Supp. 2d 141 (2007) (footnote 4).

- (33) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- (34) COMMON LAW NEGLIGENCE PER SE
- (35) COMMON LAW CIVIL CONSPIRACY

103. Additionally, “the DCCPPA’s extensive enforcement mechanisms apply not only to the unlawful trade practices proscribed by § 28-3904, **but to all other statutory and common law prohibitions.**” *Osbourne v. Capital City Mortgage Corp.*, 727 A.2d 322, 325-26 (D.C. 1999). The DCCPPA does not contradict TILA / Reg. Z as used in this Complaint.

104. Under section § 28-3905(k)(2) – plaintiff may recover statutory damages of \$1,500 per violation. *MICHAEL PATRICK MURRAY, et al., v. MOTOROLA, INC., et al.*, Appeals from the Superior Court of the District of Columbia (Nos’. CA-8479-01, CA-1368-02, CA-1369-02, CA-1370-02, CA-1371-02 & CA-1372-02)(2009).

105. DCCPPA Defendants fall under the definition of “person” in the DCCPPA. Plaintiff falls under the definition of “consumer” in the DCCPPA.

106. “Goods and Services” under the DCCPPA are defined as... “any and all parts of the economic output of society, at any stage or related or necessary point in the economic process, and includes consumer credit, franchises, business opportunities, real estate transactions, and consumer services of all types.”

107. TILA compliance is, but not limited to, a “necessary point in the economic process” associated with CC transactions governed by TILA, Reg. Z, FTC Act, FDCPA, DCCPPA, and District laws. TILA applies in all states and the District, and to all issuing banks.

108. Under the DCCPPA, a consumer may recover a separate statutory award against each individual defendant for each unfair trade practice. *Byrd v. Jackson*, 902 A.2d 778 (D.C. 2006) (affirms trial court ruling that a single action may result in multiple violations of,

and multiple awards under, the D.C. Consumer Protection Procedures Act. Because the DCCPPA claims herein are a law enforcement action all Defendants must pay the full amount of damages. The DCCPPA is extraterritorial, and therefore it can be applied nationwide as to Defendants to protect not only DoC CC Cardholders / Applicants, but also any CC Cardholder who used their CC to pay a named Merchant.

108. Every time a CC application is taken the CC Issuer collects the applicant's social security number (SSN), known by Defendants. This results in multiple state & federal felonies, starting with 42 U.S.C. 408(a)(8) in conjunction with TILA; plus, violations of 15 U.S.C. § 1611; 18 U.S.C. §§ 241, 242, 371; 18 U.S.C. 1028 (a)(7) and 1028(d)(7); plus, 18 U.S.C. § 1028(f) [conspiracy], 1028(b)(2) [penalty]; and, 15 U.S.C. § 1611 [felony]. Six federal felonies right out of the gate with more to come every time that SSN is "used" or "disclosed" in the future.

Billions of felonies nationwide have been committed connected to SSNs, concealed by Defendants.

109. Plaintiff, GP, and RICO class members have been injured by Defendants.

110. Plaintiff and all members of the general public are entitled to statutory damages under the DCCPPA.

Fed Defs Alleged Immunity

111. Qualified immunity protects a government official from lawsuits alleging that the official violated a plaintiff's rights, only allowing suits where officials violated a "clearly established" statutory or constitutional right. When determining whether or not a right was "clearly established," courts consider whether a hypothetical reasonable official would have known that the defendant's conduct violated the plaintiff's rights. Courts conducting this analysis apply the law that was in force at the time of the alleged violation, not the law in effect when the court considers the case.

112. As to the Fed Defs, in their individual capacity for going outside the scope of their authority, acting in concert, in the Federal Employees Liability Reform and Tort Compensation Act of 1988 (FELRTCA), Congress abrogated this common law rule and extended absolute immunity for common law torts to all federal employees regardless of whether the conduct at issue was discretionary; HOWEVER, the immunity conferred by FELRTCA does not extend or apply to suits against federal employees for violations of the Constitution or federal statutes. [e.g. FCA, money laundering statute, etc.]. Thus, government officials sued for constitutional torts continue to be protected only by qualified immunity. 28 U.S.C. § 2679(b)(2). See *Harlow v. Fitzgerald*, 457 U.S. 800, 807 (1982); *Butz v. Economou*, 438 U.S. 478 (1978). Where applicable, qualified immunity protects an official from trial and the burdens of litigation. See *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985). Again, Fed Defs cannot be substituted for the Federal Government under the *Westfall Act* [statutory violations]. MICHAEL E. HOROWITZ concealed the Conspiracy both at the U.S. Department of Justice Inspector General's Office and at the Council of the Inspectors General on Integrity and Efficiency.

113. All potential defendants have concealed the IF Conspiracy [overt acts]. The liability of individual conspirators continues on from the time they joined the plot until it ends or until they withdraw.³ The want of an individual's continued active participation is no defense as long as the underlying conspiracy lives and he has not withdrawn.⁴ An individual who claims to have withdrawn must show either that he took some action to make his departure clear to his co-conspirators or that he disclosed the scheme to the authorities.⁵ The burden that he has withdrawn rests with the defendant.⁶ "Withdrawal terminates the defendant's liability for post withdrawal acts of his co-conspirators, but he remains guilty of conspiracy."⁷

3. *United States v. Hodge*, 594 F.3d 614, 619 (8th Cir. 2010); *United States v. Caldwell*, 589 F.3d at 1330; *United States v. Egbert*, 562 F.3d 1092, 1098 (10th Cir. 2009).

4. *Smith v. United States*, 133 U.S. 714, 721 (2013)(emphasis in the original)("[A] defendant's membership in the conspiracy, and his responsibility for its acts, endures even if he is entirely inactive after joining it"); *United States v. Bostick*, 791 F.3d 127, 143 (D.C. Cir. 2015); *United States v. Ngige*, 780 F.3d 497, 503 (1st Cir. 2015).

5. *United States v. Bostick*, 791 F.3d at 143; *United States v. Ortega*, 750 F.3d 1020, 1024 (8th Cir. 2014)("To establish withdrawal from a conspiracy the defendant has the burden to demonstrate that he took affirmative action by making a clean breast to the authorities or by communicating his withdrawal in a manner reasonably calculated to reach his coconspirators"); *United States v. Morgan*, 748 F.3d 1024, 1037 (10th Cir. 2014).

6. *Smith v. United States*, 133 S. Ct. 714, 720 (2013); *United States v. Bostick*, 791 F.3d at 143; *United States v. Ortega*, 750 F.3d at 1024.

7. *Smith v. United States*, 133 S. Ct. at 719; see also, *United States v. Salazar*, 751 F.3d 326, 330-31 (5th Cir. 2015); *United States v. Smith*, 749 F.3d 465, 498 (6th Cir. 2014).

114. Federal law contains several statutes that outlaw defrauding the United States. Two of the most commonly prosecuted are 18 U.S.C. 286, which outlaws conspiracy to defraud the United States through the submission of a false claim, and 18 U.S.C. 371, which in addition to conspiracies to violate federal law, outlaws conspiracies to defraud the United States of property or by obstructing the performance of its agencies. Section 371 has an overt act requirement 8. Section 286 does not 9. The general principles of federal conspiracy law apply to both 10.

115. The elements of conspiracy to defraud the United States under 18 U.S.C. 371 are (1) an agreement of two or more persons; (2) to defraud the United States; and (3) an overt act in furtherance of the conspiracy committed by one of the conspirators. 11 The “fraud covered by the statute reaches any conspiracy for the purpose of impairing, obstructing or defeating the lawful functions of any department of the Government” 12 by “deceit, craft or trickery, or at

8. 18 U.S.C. 371 (“If two or more persons conspire ... and one or more of such persons do any act to effect the object of the conspiracy ...”).

9. *United States v. Saybolt*, 577 F.3d 195, 202 (3d Cir. 2009); *United States v. Dedman*, 527 F.3d 577, 594 n.7 (6th Cir. 2008); *United States v. Lanier*, 920 F.2d 887, 892 (11th Cir. 1991); but see, *United States v. Baldwin*, 774 F.3d 711, 721 (11th Cir. 2014) (“18 U.S.C. § 286 provides that ... [t]o prove the conspiracy element, the government was required to show ... the commission of an overt act in furtherance of it”).

10. See generally *Goldstein, Conspiracy to Defraud the United States*, 68 YALE LAW JOURNAL 405 (1958).

11. *United States v. Conti*, 804 F.3d 977, 979-80 (9th Cir. 2015); *United States v. Mubayyid*, 658 F.3d 35, 52 (1st Cir. 2011); *United States v. Root*, 585 F.3d 145, 157 (3d Cir. 2009); *United States v. World Wide Moving, N.V.*, 411 F.3d 502, 516 (4th Cir. 2005).

12. *Tanner v. United States*, 483 U.S. 107, 128 (1987), citing, *Dennis v. United States*, 384 U.S. 855, 861 (1966); *Glasser v. United States*, 315 U.S. 60, 66 (1942); *Hammerschmidt v. United States*, 265 U.S. 182, 188 (1924); and *Haas v. Henkel*, 216 U.S. 462, 479 (1910); see also, *United States v. Rodman*, 776 F.3d 638, 642 (9th Cir. 2015).

least by means that are dishonest.”¹³ The plot must be directed against the United States or some federal entity; a scheme to defraud the recipient of federal funds is not sufficient¹⁴.

The scheme may be designed to deprive the United States of money or property, but it need not be so; a plot calculated to frustrate the functions of an entity of the United States will suffice¹⁵.

Note: This is how I can name Mastercard, Visa, Discover, American Express and their respective Executives / Lawyers if I deem it necessary. [An acquiring bank (also known simply as acquirer) is a bank or financial institution that processes credit or debit card payments on behalf of a merchant. The acquirer allows merchants to accept credit card payments from the card-issuing banks within an association]. The bank defendants cannot use arbitration as a defense because they have no contract with the federal government. All co-conspirators have aided the federal contractors in misrepresenting their eligibility to collect under their federal contracts.

13. *Glasser v. United States*, 315 U.S. at 66; *Hammerschmidt v. United States*, 265 U.S. at 188; *United States v. Conti*, 804 F.3d at 980.

14. *Tanner v. United States*, 483 U.S. 107, 128-32 (1987); *United States v. Mendez*, 528 F.3d 811, 814-15 (11th Cir. 2008).

15. *Hammerschmidt v. United States*, 265 U.S. at 188 (“It is not necessary that the government shall be subjected to property or pecuniary loss by the fraud, but only that its legitimate official action and purpose shall be defeated by misrepresentation”); *United States v. Ballistrea*, 101 F.3d 827, 832 (2d Cir. 1996)(This provision not only reaches schemes which deprive the government of money or property, but also is designed to protect the integrity of the United States and its agencies”); *United States v. Dean*, 55 F.3d 640, 647 (D.C. Cir. 1995)(“If the government’s evidence showed that Dean conspired to impair the functioning of the Department of Housing and Urban Development, no other form of injury to the Federal Government need be established for the conspiracy to fall under §371”).

116. In contrast, a second federal statute, 18 U.S.C. 286, condemns conspiracies to defraud the United States of money or property through submission of a false claim¹⁶. The elements of a Section 286 violation are that “the defendant entered into a conspiracy to obtain payment or allowance of a claim against a department or agency of the United States; (2) the claim was false, fictitious, or fraudulent; (3) the defendant knew or was deliberately ignorant of the claim’s falsity, fictitiousness, or fraudulence; (4) the defendant knew of the conspiracy and intended to join it; and (5) the defendant voluntarily participated in the conspiracy”¹⁷. Conviction does not require proof of an overt act in furtherance of the conspiracy¹⁸.

16. “Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious, or fraudulent claim, shall be fined under this title or imprisoned not more than ten years, or both,” 18 U.S.C. 286.

17. *United States v. Dedman*, 527 F.3d 577, 593-94 (6th Cir. 2008). At least one other circuit also includes a materiality requirement, that is, the false, fictitious, or fraudulent assertion must be one which naturally has a material effect on the government’s decision to pay or deny the claim, *United States v. Saybolt*, 577 F.3d 195, 201-204 (3d Cir. 2009).

18. *United States v. Saybolt*, 577 F.3d 195, 202 (3d Cir. 2009); *United States v. Dedman*, 527 F.3d 577, 594 n.7 (6th Cir. 2008); *United States v. Lanier*, 920 F.2d 887, 892 (11th Cir. 1991); but see, *United States v. Baldwin*, 774 F.3d 711, 721 (11th Cir. 2014)(“18 U.S.C. § 286 provides ... To prove the conspiracy element, the government was required to show ... the commission of an overt act in furtherance of it”).

FACTS

117. Why are Fed Defs participating / concealing the Conspiracy? Simple, all three branches of the federal government accept one or more CCs. Plaintiff made donations on Politicians' websites on these dates [See Plaintiff Exhibit A]. The Politicians knew [documented] that every time a donor used a CC to make a donation, money was being stolen from the CC Cardholder. This is a contravention of "acceptable notions of morality, the misconduct for which it would grant immunity smacks of intentional wrongdoing." The same applies for CC transactions processed by Processors. Politicians, except Senator Graham, voted to repeal the CFPB's regulation that repealed mandatory arbitration, protecting the banks. Senator Graham covered-up the Conspiracy at the Senate Judiciary Committee.

118. CoCs - REDACTED

NOTE: Absolute immunity bars individual-capacity lawsuits against the President for actions taken upon assumption of office, EXCEPT for conduct not related to Official duties of the President. *Clinton v. Jones*, 520 U.S. 681 (1997). President Trump and BO do not have the luxury of this absolute immunity connected to their respective campaigns. DoC / this Court have personal jurisdiction over both Defendants.

119. The Federal Elections Commission (“FEC”) Defendants, JAMES E. TRAINOR III, (JT) STEVEN T. WALTHER (SW) ELLEN L. WEINTRAUB (EW), CAROLINE C. HUNTER, MATTHEW S. PETERSEN, LEE E. GOODMAN, LISA J. STEVENSON, (b) (6) (collectively “FEC Defs”), inherited FEC Advisory Opinions AO 2007-04 - July 1, 2007; and, AO 2019-15 - July 2, 2020 that authorize the CC convenience fees that include the illegal “Fees” was just issued by JT, SW & EW. SCOTUS interpreted the relevant TILA disclosure statutes in 2004 [*supra*]. The FEC knew about the illegal Fees when they issued AO 2019-15 - July 2, 2020.

120. FEC Defs cannot use the excuse they didn’t know about AO 2007-04 unless they want to admit to negligence. Both Advisory Opinions state DISCLAIMER: “This information is not intended to replace the law or to change its meaning, nor does this information create or confer any rights for or on any person or bind the Federal Election Commission or the public. The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended (52 U.S.C. 30101 et seq.), Commission regulations (Title 11 of the Code of Federal Regulations), Commission advisory opinions and applicable court decisions.”

121. The IF and AF [Fees] are charged to Merchant [Politicians] who passes them on to the CC cardholder, charging them to the cardholder’s CC. In a CC transaction the stolen IF is laundered back to issuing bank and the stolen AF is laundered back [pass through] to the respective credit card company.

122. The allegation of an IF Conspiracy created by Bank of America et al, that was rolled into Bankamericard [Visa today], Mastercharge, MasterCard & Visa, [Discover and American Express knowingly joined the Conspiracy after-the-fact] is not Plaintiff’s opinion, it’s the opinion of federal Judge Gleeson, who in his 2003 decision in the VISA / MasterCard IF

antitrust case about honor all cards, initiated by merchants, where he says about whether it's possible to believe MasterCard and Visa are engaged in a conspiracy with each other;

“In addition to their claims of substantive tying violations of § 1, the merchants claim that Visa and MasterCard acted in concert to impose those illegal tying arrangements on them. The defendants contend that the merchants have failed to present any “direct or circumstantial evidence that reasonably tends to prove that [they] had a conscious commitment to a common scheme designed to achieve an unlawful objective.” *Monsanto Co. v. Spray-Rite Serv. Corp.*, 465 U.S. 752, 764 (1984) (quotations and citations omitted). I disagree. There is evidence, direct and circumstantial, from which a jury could find a conspiracy.” 19 [underline added]

123. MasterCard, Visa, American Express & Discover [MOs] set the IFs and AFs for their respective CCs. IFs are paid to the cardholder's issuing bank. AFs are paid to the respective MO
20.

124. Once again, IFs are required to be disclosed by the Issuing Bank for all CCs pursuant to 15 U.S.C. § 1637(a)(5) [before the account is opened]; Title 15 U.S.C. § 1637 (c)(4)(A)(ii); 12 CFR 226.6(b)(2)(F)(iv) [in all solicitations and applications] (collectively “TILA”). The U.S. Supreme Court has already interpreted the TILA statutes in question with no conflict as above. The IF Conspiracy called for the IF to be hidden from the CC cardholder. Because the IF / AF are not disclosed as required they are illegal, and, required to be refunded with interest.

Merchants, CC issuing banks, & CC processors launder the stolen IF & AF.

19. Retired Federal Judge John Gleeson is now a co-conspirator defendant in Plaintiff's upcoming FCA Qui Tam lawsuit against New York et al controlled by Plaintiff. As of 5/15/2020, Judge Gleeson has lawyered up.

20. Plaintiff is the World's foremost expert on the IF and can back this up. When BOA, (b) (6) and others decided upon the IF conspiracy there was one lawyer sitting in the room who told them that hiding the IF from the cardholder violated TILA, and probably violated antitrust. BOA et al decided to do it anyway. The lawyer refused to participate as an “officer of the court.” He was fired. Many, many years later he ethically & legally gave Plaintiff everything.

125. Sworn testimony from the IF Task Force, U.S. Department of Justice:

“Consumers Pay for Interchange - All consumers shoulder the burden of interchange fees as the costs are passed along in the form of higher prices for goods and services. In fact, the average household paid more than \$300 in hidden interchange fees in 2006.” (The Merchants Payments Coalition, September 14, 2007 – Prepared for the House Judiciary Committee Antitrust Task Force In Response to Questions Raised by Congressman Ric Keller at the July 19, 2007 hearing of the Antitrust Task Force, entitled, “Credit Card Interchange Fees.”).

Corroborated in GAO’s Report to Congress in 2006:

“After the transaction is approved, the issuing bank will send the purchase amount, less an interchange fee, to the merchant’s bank. The interchange fee is established by the card association.”
[underline added for emphasis] United States Government Accountability Office Report to the Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate, September 2006 - credit cards Increased Complexity in Rates and Fees Heightens Need for more Effective Disclosures to Consumers.

126. From the Federal Reserve:

“The network routes information first to authorize then to settle the payment. To settle, the card issuing bank obtains funds from the cardholder – \$100 in this example – with which it can pay the merchant bank. However, the card-issuing bank retains a portion of the funds as an interchange fee. In this example, the fee is \$1.50 and the card-issuing bank sends \$98.50 to the merchant bank.” [underline added for emphasis] Interchange Fees in Credit and Debit Card Markets: What Role For Public Authorities? A summary of a Federal Reserve Bank of Kansas City Conference. By Barbara Pacheco and Richard Sullivan – 2005.

127. A Former U.S. Solicitor General, in a filed brief in the United States Supreme Court, stated that all other charges must be disclosed pursuant to 15 U.S.C. § 1637 – “Creditors must also identify ‘other charges which may be imposed as part of the plan.’ 15 U.S.C. 1637(a)(5).”

Case No. 02-857. SCOTUS agreed in their published opinion. Again, the TILA disclosure statutes in question have already been interpreted by SCOTUS.

FROM HOUSEHOLD CREDIT SERVICES, INC., ET AL. v. PFENNIG (SCOTUS 2004)

“But, this Court has recognized that the phrase ‘incident to or in conjunction with’ implies some necessary connection between the antecedent and its object, although it ‘does not place beyond rational debate the nature or extent of the required connection. *Holly Farms Corp. v. NLRB*, 517 U. S. 392, 403, n. 9 (1996) (internal quotation marks omitted). In other words, the phrase “incident to” does not make clear whether a substantial (as opposed to a remote) connection is required. Thus, unlike the Court of Appeals, we cannot conclude that the term ‘finance charge’ unambiguously includes over-limit fees. That term, standing alone, is ambiguous...”

Moreover, an examination of TILA’s related provisions, as well as the full text of § 1605 itself, casts doubt on the Court of Appeal’s interpretation of the statute. A consumer holding an open-end credit plan may incur two types of charges - finance charges and ‘other charges which may be imposed as part of the plan.’ §§ 1637(a)(1) - (5). TILA does not make clear which charges fall into each category. But TILA’s recognition of at least two categories of charges does make clear that Congress did not contemplate that all charges made in connection with an open-end credit plan would be considered ‘finance charges.’”

128. Once again and this is important, when the CC application is taken the Issuer collects the applicant’s social security number (SSN). This results in multiple state & federal felonies, starting with 42 U.S.C. 408(a)(8) in conjunction with TILA; plus, violations of 15 U.S.C. § 1611; 18 U.S.C. §§ 241, 242, 371; 18 U.S.C. 1028 (a)(7) and 1028(d)(7); plus, 18 U.S.C. § 1028(f) [conspiracy], 1028(b)(2) [penalty]; and, 15 U.S.C. § 1611 [felony]. Six federal felonies right out of the gate with more to come every time that SSN is “used” or “disclosed” in the future. Billions of felonies have been committed connected to SSNs, covered up by Defendants

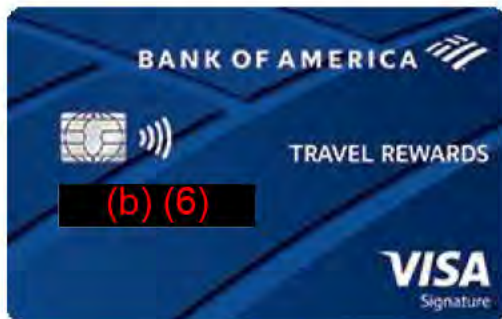
129. “American consumers pay the highest credit card interchange fees in the industrialized world, three times what British consumers pay. American consumers pay around \$80 billion a year in credit and debit card swipe fees. Consumers’ hard earned Money goes to banks and credit

card companies for the right to swipe your card and even consumers who don't use plastic pay more through higher prices.” *The Merchants Payments Coalition (MPC): an organization representing the nation’s retailers, department stores, supermarkets, drug stores, convenience stores, gasoline stations, and on-line merchants in payment and transaction issues. MPC represents more than 2.7 million locations and approximately 50 million employees.*

130. “Ask most people what a ‘swipe fee’ is and they’d probably say a surcharge, like the \$2 fee banks attach to a withdrawal from an automated teller machine. But this swipe fee is hidden.” *Walmart.*

131. Defendants are acting in concert, covering-up, and have never attempted to stop the Conspiracy. The IF and AF are required to be disclosed in all CC Applications and Solicitations [TILA] because it is a transaction charge, not a finance charge, “imposed” for using the CC regardless if the Merchant elects to charge it as a surcharge or convenience fee or service charge; and, prior to opening the CC account, which has never happened for IFs and AFs [TILA]. When a merchant allows the processor to charge the illegal Fees the processor does so as the agent for Merchant. Plaintiff will establish this for all CCs through the testimony / exhibits of MOs who set the policy for all CCs issued, and, physical evidence from BOA as to their credit cards.

132. Example of two Bank of America CCs’ inadequate disclosure of transaction fees:



Terms & Conditions as of 8/10/20:

Fees

Annual Fee – None

Transaction Fees

- Purchase

Purchase of a wire transfer from a non-financial institution:

Either **\$10** or **5%** of the amount of each transaction, whichever is greater.

- Balance Transfer

Either **\$10** or **3%** of the amount of each transaction, whichever is greater.

- Cash Advance

Direct Deposit and Check Cash Advances:

Either **\$10** or **3%** of the amount of each transaction, whichever is greater.

ATM, Over-the-Counter, Same-Day Online and Cash Equivalent Cash Advances:

Either **\$10** or **5%** of the amount of each transaction, whichever is greater.

Overdraft Protection Cash Advance (if enrolled): **\$12** for each transaction.

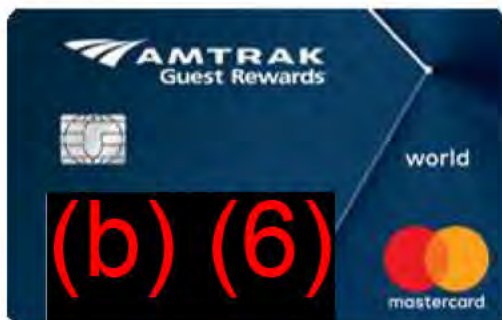
- Foreign Transaction – **None**

Penalty Fees

- Late Payment - Up to **\$40**

- Returned Payment - Up to **\$29**

NOTE: As you can see no disclosure of the Interchange Fee or Assessment Fee.



Terms & Conditions as of 8/01/20:

Fees

Annual Fee - \$79

NOTICE: The annual fee is scheduled to be assessed before you begin using your card and will reduce the amount of credit you initially have available. For example, if you are assigned the minimum credit limit of \$500, your initial available credit will be only about \$421.

Transaction Fees

- Purchase

Purchase of a wire transfer from a non-financial institution:

Either **\$10** or **5%** of the amount of each transaction, whichever is greater.

- Balance Transfer

Either **\$10** or **3%** of the amount of each transaction, whichever is greater.

- Cash Advance

Direct Deposit and Check Cash Advances:

Either **\$10** or **3%** of the amount of each transaction, whichever is greater.

ATM, Over-the-Counter, Same-Day Online and Cash Equivalent Cash Advances:

Either **\$10** or **5%** of the amount of each transaction, whichever is greater.

Overdraft Protection Cash Advance (if enrolled): **\$12** for each transaction.

- Foreign Transaction – **None**

Penalty Fees

- Late Payment - Up to **\$40**

- Returned Payment - Up to **\$29**

NOTE: As you can see no disclosure of the Interchange Fee or Assessment Fee.

133. If the CC is an affinity / co-branded (CBP) CC like the above Amtrak MasterCard the Issuer generally gives the CBP [Amtrak] a percentage of each IF [“Fruit from the Poison Tree,” proceeds from the racketeering enterprise] - [standard co-branded agreement] + additional incentives.

134. The AF is automatically charged to the CC and sent to the respective MO. The CC Issuer keeps the IF after deducting the transaction amount from the purchase charged to the CC

Cardholders' credit line. It does not show up on the monthly billing statement, although required to be itemized and disclosed between 1968 and sometime in late 2013 [12 CFR 226.7(h), repealed by Richard Cordray [first CFPB Director] in this attempted "Establishment" cover-up.

PART 226—TRUTH IN LENDING - (REGULATION Z) Subpart B—Open-End Credit

§ 226.7 Periodic statement. – [1968 to sometime after July 16, 2013 {shell game}]

"The creditor shall furnish the consumer with a periodic statement that discloses the following items, to the extent applicable:

(h) Other charges. The amounts itemized and identified by type, of any charges other than finance charges debited to the account during the billing cycle."

Once again "**debited to the account during the billing cycle.**" The CFPB [Richard Cordray (Cordray)] was able to repeal 226.7(h) sometime after July 16, 2013, Cordray's confirmation date [only CFPB's Director can implement new regulations - *Dodd Frank*, CFPB had to wait for Cordray's confirmation] because it was a Regulation, BUT, disclosure of all "**other charges**" prior to opening, and in all solicitations and applications was in the TILA statutes and could not be repealed by Cordray.

(b) (6)

Z.

"JAN 09, 2020

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) today announced four members [now (5)] who will serve on the Task Force on Federal Consumer Financial Law... (b) (6)

Now go back to 2005: **Loyola Consumer Law Review** (2005), Volume 17 | Issue 2 Article 2 [Published].

TILA "Finance" and "Other" Charges in Open-End
Credit: The Cost-of-Credit Principle Applied to
Charges for Optional Products or Services

(b) (6)

“Since their enactment in 1968, TILA and Regulation Z have required that open-end creditors describe in the initial disclosures ‘other charges which may be imposed as part of the plan.’⁴¹ Regulation Z also requires that each periodic statement itemize the amounts and types of “other charges” imposed during the period.⁴²

The term ‘**imposed**’ [in Regulation Z § 226.4(a)] is interpreted broadly, to include any cost charged by the creditor (unless otherwise excluded), including charges for optional services paid by the consumer.

41. Truth in Lending Act (TILA) § 130, 15 U.S.C. § 1637(a)(5) (2004); Regulation Z § 226.6(b).

42. Regulation Z § 226.7(h).” [Red font & underline added].

136. The first CFPB Director, Cordray, immediately eliminated the federal law that required the illegal Fees to itemized and disclosed in all CC monthly billing statements. Now the current CFPB Director, Kathleen Kraninger – [Trump appointee], who has been concealing the Conspiracy just like interim CFPB Director Mick Mulvaney did, is trying to sneak a pork chop past a dog, via the Task Force, who is also concealing the Conspiracy. Keep in mind every politician running for office this year is laundering stolen money, stolen from their donors who paid with a CC; and, then there is the money laundering by states, cities and counties, plus their massive tax fraud [taxes paid by CC are calculated using the total CC charge, which includes the illegal Fees]; and, then there is the IRS laundering stolen money when taxpayers pay their tax bill with a CC, plus fraudulent federal excise taxes; and, then there are the debt collectors illegally bankrupting CC debtors when the alleged debt is non-collectible because the Fees were

never disclosed [Fair Debt Collection Practices Act]; and, Plaintiff can go on and on... perhaps this is enough, except for one more thing. As to the illegal Fees [other charges] never itemized and disclosed on monthly billing statements, repealed by Cordray sometime after July 16, 2013:

“The statute of limitations for mail fraud and wire fraud prosecutions is five years (18 U.S.C. § 3282), except for one more thing mail and wire fraud schemes that affect a financial institution, in which case the statute is ten years (18 U.S.C. § 3293).” *Jan 21, 2020*, at least up to 7/13/2023.

[NOTE: CFPB personnel are being named in other lawsuits controlled by Plaintiff].

137. 15 U.S. Code § 1640(a)(4) - Civil liability [the worse civil recovery statute available]

“In connection with the disclosures referred to in subsection (c) or (d) of section 1637 of this title, a card issuer shall have a liability under this section only to a cardholder who pays a fee described in section 1637(c)(1)(A)(ii)(I) or section 1637(c)(4)(A)(i) of this title or who uses the credit card or charge card.”
[underline added].

1637(c)(1)(A)(ii)(I) - Annual and other fees:

(I) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

1637(c)(4)(A)(i) - Charge card applications and solicitations:

(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of the charge card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

138. The criminal statute in TILA has fully ripened. 15 U.S. Code § 1611 (1611) - Criminal liability for willful and knowing violation -

“Whoever willfully and knowingly - (3) otherwise fails to comply with any requirement imposed under this subchapter, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.”

State criminal theft violations are also being committed nationwide.

139. When a CC account is put into collection and turned over to a Debt Collector (DTC) for collection, the balance includes illegal IFs / AFs w/interest being collected by the DTCs. They do not tell the CC Cardholder, which violates the Fair Debt Collection Practices Act (FDCPA). AC knows this. Every CC collection case I have intervened in via assignment has resulted in the DTC and/or creditor walking away. As to RICO, we are also talking about wire fraud, bank fraud & money laundering. Due to the extended limitation period that applies to banks, the claims for failing to itemize & disclose the IF on CC monthly billing statements, those claims are still active.

140. Title 15, U.S.C., § 1637 (c)(4)(A)(ii) -

“(4) Charge card applications and solicitations –

(A) In general

Any application or solicitation to open a charge card account shall disclose clearly and conspicuously the following information in the form required by section 1632(c) of this title, subject to subsection (e) of this section:

(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of the charge card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle; 21

(ii) Any transaction charge imposed in connection with use of the card to purchase goods or services.

21. 15 U.S.C. § 1637(e)(2) says – “Disclosure only of fees actually imposed: If a credit or charge card issuer does not impose any fee required to be disclosed under any provision of subsection (c) or (d), such provision shall not apply with respect to such issuer.” The term “credit” has the meaning given to such term in section 1602(e) of this title.” 15 U.S.C. 1602(e) says – “The term ‘person’ means a natural person or an organization.” MOs are Organizations who have contracts with their issuing banks.

141. 12 CFR 226.6 –

“Account-opening disclosures” requires –

226.6 (b)(2) “Required disclosures for account-opening table for open-end (not home-secured) plans. A creditor shall disclose the items in this section, to the extent applicable.”

(b)(2)(F) “Credit card accounts under an open-end (not home-secured) consumer credit plan. Notwithstanding paragraphs (b)(2)(i)(B) and (b)(2)(i)(C) of this section, for credit card accounts under an open-end (not home-secured) plan, issuers must disclose in the table” –

(b)(2)(F)(iv) – “Transaction charges. Any transaction charge imposed by the creditor for use of the open-end plan for purchases.”

MOs admit that the IF & AF are “Transaction Charges.” The physical evidence proves this.

CONSPIRACY TO INTENTIONALLY NOT DISCLOSE INTERCHANGE FEES

142. Multiple federal government agencies concluded, including U.S. DOJ Task Force on IF, that the IF is charged to the CC Cardholder’s account. The physical evidence proves it. (July 19, 2007 hearing of the Antitrust Task Force, entitled, “Credit Card Interchange Fees,” House Judiciary Committee).

143. Also known as the Pinkerton doctrine, the rule that a conspirator will be found responsible for the substantive crimes committed by a co-conspirator when the crimes are foreseeable and carried out in furtherance of the conspiracy.

144. For conspiracy, the limitations period begins to run when the last overt act is committed. See *Fiswick v. United States*, 329 U.S. 211 (1946). If the members of the conspiracy continue to conceal the conspiracy, those are overt acts and the statute of limitations will not begin until the concealment ends. *U.S. Attorneys' Criminal Resource Manual*. If an individual withdraws from a

conspiracy, the statute of limitations will start running at the time of the withdrawal. Keep in mind that withdrawal is generally interpreted as an affirmative act to withdraw such as reporting the conspiracy to the authorities or telling co-conspirators of the withdrawal. See *United States v. Gonzalez*, 797 F.2d 915 (10th Cir. 1986).

WHY HAS THE FEDERAL GOVERNMENT NOT STOPPED THIS? 22

145. Here's the answer.

“When the Attorney General of the United States admitted some banks are simply too big to prosecute, it might be time to admit we have a problem - and that goes for both the financial and justice systems.”

Eric Holder made this rather startling confession in testimony before the Senate Judiciary Committee on Wednesday, [March 2013] The Hill reports. It could be a key moment in the debate over whether to do something about the size and complexity of our biggest banks, which have only gotten bigger and more systemically important since the financial crisis.

‘I am concerned that the size of some of these institutions becomes so large that it does become difficult for us to prosecute them when we are hit with indications that if you do prosecute, if you do bring a criminal charge, it will have a negative impact on the national economy, perhaps even the world economy,’ Holder said, according to The Hill. ‘And I think that is a function of the fact that some of these institutions have become too large.’

Holder's comments don't come as a total surprise. His underlings had already made similar confessions to The New York Times last year, after they declined to prosecute HSBC for flagrant, years-long violations of money-laundering laws, out of fear that doing so would hurt the global economy. Lanny Breuer, formerly in charge of doling out the Justice Department's wrist slaps to banks, told Frontline as much in the documentary ‘The Untouchables,’ which aired in January.

22. No one in the federal government, from Jerome Powell, Chairman Federal Reserve Board, to Steve Mnuchin, Secretary U.S. Treasury, to Bill Barr, U.S. Attorney General, Federal Elections Commission, OCC, FDIC, CFPB, or (5) judges who had the opportunity will go on record in writing saying Plaintiff is wrong. One federal judge elected to commit fraud on the court in lieu of ruling Plaintiff was wrong, and then he had to grant Plaintiff's Rule 60 Motion based on him committing fraud on the court. Plaintiff has already settled out of court with many defendants, including a top 10 Issuer of MasterCard & Visa CCs.

Some observers have defended the Justice Department, suggesting that prosecuting law-breaking banks would amount to a death penalty that could upset the financial system and trigger another recession — although nobody really knows if it would do any such thing. But by not prosecuting law-breaking banks, and confessing to its terror of prosecuting those banks, the Justice Department has waved a big checkered flag to the biggest banks to go ahead and break all of the laws they want.

Holder's confession comes after several weeks of criticism from lawmakers about the Justice Department's failure to prosecute banks not only for potentially hard-to-prove cases involving the financial crisis, but also for cases in which proof wasn't as hard to find, as in HSBC's case.

It is significant that Holder's confession - cry for help, really - comes at the one place that could possibly help, the U.S. Congress. So now you have the Obama administration joining a growing, bipartisan group of lawmakers speaking out about the problem of banks being too big to fail and/or jail. Sens. Sherrod Brown (D-Ohio) and David Vitter (R-La.) last week announced they were working together on bipartisan legislation to address it." *HuffPost*

146. "Holder's admission bolsters criticisms that federal prosecutors are deeming some banks 'too big to jail,' a charge that lawmakers and consumer advocates have routinely made in the wake of recent bank settlements. Although the government has issued record multimillion-dollar fines in these cases, critics say without criminal charges, the agreements amount to a slap on the wrist.

147. 'Stunning' is how Sen. Charles E. Grassley (R-Iowa) described Holder's remarks before the Senate Judiciary Committee on Wednesday. "After hearing today's testimony, big bankers know that if they commit financial crimes, they can expect a passive response from the Justice Department." *Washington Post March 2013*. Politicians knowingly continue to, but not limited to, launder stolen money and all other Defendants aid & abet that illegal conduct.

COUNT I
VIOLATIONS OF RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
ACT (RICO) VIOLATION OF 18 U.S.C. § 1962(C) - (D)
(Against all Defendants)

COUNT II

§ 28-3904 (a) (represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have) - (Against All Defendants, excluding “Politicians” & “Fed Defs” – Fed Defs exclude BARACK OBAMA, HILLARY CLINTON, CAROLINE C. HUNTER, MATTHEW S. PETERSEN, LEE E. GOODMAN, RICHARD CORDRAY, MICK MULVANEY (collectively “non DCCPPA Defs”));

COUNT III

§ 28-3904(b) (represent that the person has a sponsorship, approval, status, affiliation, certification, or connection that the person does not have) – (Against All Defendants excluding non DCCPPA Defs)

COUNT IV

§ 28-3904(d) (represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another) – (Against All Defendants excluding non DCCPPA Defs)

COUNT V

§ 28-3904(e); (misrepresenting as to a material fact which has a tendency to mislead) – (Against All Defendants excluding non DCCPPA Defs)

COUNT VI

§ 28-3904(e-1) ([r]epresent that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law); (Against All Defendants excluding non DCCPPA Defs)

COUNT VII

§ 28-3904(f) (fail to state a material fact if such failure tends to mislead); (Against All Defendants excluding non DCCPPA Defs)

COUNT VIII

§ 28-3904(f-1) ([u]se innuendo or ambiguity as to a material fact, which has a tendency to mislead) – (Against All Defendants excluding non DCCPPA Defs)

COUNT IX

**§ 28-3904(h) (advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered) –
(Against All Defendants non DCCPPA Defs)**

COUNT X

**§ 28-3904(x) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XI

**§ 28-3904(x-1 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XII

**§ 28-3904(x-2 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XIII

**§ 28-3904(x-3 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XIV

**§ 28-3904(x-4 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XV

**§ 28-3904(x-5 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XVI

**§ 28-3904(x-6 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XVII

**§ 28-3904(x-7 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XVIII

**§ 28-3904(x-8 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XIX

**§ 28-3904(x-9 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XX

**§ 28-3904(x-10 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XXI

**§ 28-3904(x-11 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XXII

**§ 28-3904(x-12 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XXIII

**§ 28-3904(x-13 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XXIV

**§ 28-3904(x-14 – federal statute) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

COUNT XXV

**§ 28-3904(x-15 – federal regulation) (sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law) –
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXVI – COMMON LAW UNCONSCIONABLE CONDUCT
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXVII - COMMON LAW NEGLIGENCE
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXVIII - BREACH OF EXPRESS WARRANTY -
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXIX – COMMON LAW FRAUDULENT CONCEALMENT
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXX – COMMON LAW NEGLIGENT MISREPRESENTATION
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXXI – COMMON LAW FRAUDULENT MISREPRESENTATION
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXXII – COMMON LAW NEGLIGENT INFLECTION
OF EMOTIONAL DISTRESS – (Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXXIII – COMMON LAW INTENTIONAL INFLECTION
OF EMOTIONAL DISTRESS –
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXXIV – COMMON LAW NEGLIGENCE PER SE
(Against All Defendants excluding non DCCPPA Defs)**

**COUNT XXXV - DISTRICT COMMON LAW CIVIL CONSPIRACY
(Against All Defendants – no damages)**

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of members of the *Victims Consumers' Class* and the Subclasses, and GP, respectfully requests that the Court enter judgment in their favor and against Defendants, as follows:

- A. Certification of the proposed *Victims Consumers' Class* and the Subclasses, including appointment of Plaintiff's co-counsel as Class Counsel and Plaintiff as class representative plaintiff;
- B. Find that the RICO Defendants conspired with each other and the criminal enterprise to furthered its illegal activity;
- C. **ORDER** Treble damages against RICO Defendants as provided by 18 U.S.C. § 1964(c);
- D. As to Count I, costs, restitution, attorney's fees and damages in an amount to be determined at trial;
- E) Find that all Defendants violated DoC civil conspiracy [Count XXXV], furthering the Conspiracy;
- F) Find that the CC Cardholder paid the "Fees" on all their CC transactions at named Merchants;
- G) Find that MOs conspired with CC issuing banks to violate TILA & Reg. Z requirements to disclose the Fees on all CC solicitations, applications, before the CC Account was opened; and, up and until § 226.7(h) was officially repealed, find MOs conspired to prevent the illegal "Fees" from being itemized and disclosed on all monthly CC billing statements;
- H) Find that each Defendant, excluding "non DCCPPA DEFS", is separately liable for violations of the D.C. Consumer Protection Procedures Act, D.C. CODE ANN. § 28-3904(a), (b), (d), (e), (e-1), (f), (f-1), (h), (x), (x-1) through (x-15), and, District Common Laws as pled COUNTS 2-34 [each count is an unlawful trade practice under the DCCPPA carrying \$1500 in strict liability] – ORDER each Defendant to pay Plaintiff and each qualifying member of the GP \$49,500 [\$1500 x 33 Counts = \$49,500] subtotal; Because it's a law enforcement action (citation omitted), each Defendant must pay the full amount, and, each co-conspirator is liable for each other, which means the TOTAL liability for each qualifying CC transaction is ONE MILLION THREE HUNDRED THIRTY-SIX THOUSAND FIVE HUNDRED DOLLARS (\$1,336,500) [\$49,500 x 27 Defendants = \$1,336,500]. [KEY NOTE: For every 10 million qualifying Merchant CC transactions the TOTAL strict liability is THIRTEEN TRILLION THREE HUNDRED SIXTY-FIVE BILLION DOLLARS (\$13,365,000,000,000);

- I) Award appropriate attorneys' fees, costs; and, any other relief the Courts deems appropriate;
- J) Refer to all criminal violations to appropriate prosecutorial agencies.

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial for all claims so triable.

____, 2020.

Respectfully submitted,

(b) (6)

Co-counsel

Co-counsel

From: no-reply@usdoj.gov on behalf of [Department of Justice via Department of Justice](#)
To: [OPR Intake Form](#)
Subject: Form submission from: How to File a Complaint with the Office of Professional Responsibility
Date: Saturday, August 22, 2020 8:00:07 AM

Submitted on: Saturday, August 22, 2020 - 7:59am EDT
Submitted to: Anonymous
Submitted values are:

Name of person seeking OPR's action (Complainant): Mr.

First: (b) (6)

Middle: (b) (6)

Last: (b) (6)

Suffix (if applicable):

Complainant Type: Federal Government Employee

Inmate/Detainee Number:

Other:

Company/Organization:

Complainant mailing address: (b) (6)

City: (b) (6)

State: (b) (6)

Zip: (b) (6)

Complainant email address:

Complainant phone number:

Complainant fax number:

If you are filing this complaint as a legal or other representative of the Complainant, please provide the following information:

Name and title of the filer:

First:

Middle:

Last:

Suffix (if applicable):

Your preferred mailing address: (b) (6)

City: (b) (6)

State: (b) (6)

Zip: (b) (6)

Your email address: (b) (6)

Information about the DOJ Attorney or DOJ Law Enforcement Official You Are Complaining About (Subject)

Name of the person(s) you are complaining about (Subject): Mr.

First: William

Middle:

Last: Barr

Suffix (if applicable):

Subject's Job Title: Other (Please specify below)

Other: Attorney General

Company/Organization: The justice department

Location of Subject's Office: Washington DC
Does your complaint involve more than one person? Yes (If yes, please provide the following information of the additional subject.)
Name of the person(s) of the second subject:
First: Christopher
Middle:
Last: Wray
Suffix (if applicable):
Second Subject's Job Title: Special Agent (ATF, DEA, or FBI)
Location of second subject's office: Washington DC

***Information about your complaint ***

What are the actions, events, or allegations that you are reporting to OPR?
(e.g., attorney misconduct, Whistleblower retaliation, Giglio/Brady violation, etc.): DOJ Law Enforcement Agent
When did the incident occur?: Mon, 08/17/2020

Please provide a brief description summarizing the:*

- * reason(s) for your complaint including the details, actions, events, or allegations,
- * case names,
- * potential witnesses and their involvement,
- * where the incident occurred,
- * how the incident occurred, and
- * any corrective actions already taken
- * For ***Whistleblower complaints only*** – describe the personnel action(s) that occurred or failed to occur because of a protected disclosure: (an appointment, a promotion, an action under 5 U.S.C. Chapter 75 or other disciplinary or corrective action; a detail, transfer, or reassignment; a reinstatement; a restoration; a reemployment; a decision about pay, benefits or awards, concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation or other action described in 5 U.S.C. § 2302 (a)(2); a performance evaluation under 5 U.S.C. Chapter 43; a decision to order psychiatric testing or examination; or any other significant change in duties, responsibilities, or working conditions.)

Please provide a brief summary of the complaint:

Over 7 years ago my wife (b) (6) inherited a home when her father died. We sold the house and the Texas Title company ran off with the money. Since then everyone who has touched the money has stolen it. Lawyers, judges, District attorneys, FBI agents and many more. Betsey Price and Greg Abbott has been involved and is also corrupt. We had Rex Tillerson come from Washington to help us. All he did was lie. Then we got the US Supreme Court involved and they sent us Chief Justice John Roberts. He stayed here in Dallas for over six months. He finally got us a new amount of 12 million. He went back to Washington with our checks. Now with the Corona Virus they keep making excuses. Trump has Pence looking into it but (b) (6) of the DOJ doesn't return our calls. Justice Roberts keeps lying that he's wiring the money from John C Williams at the New York Federal Reserve but it never shows up?! The amount is now 13 million and only Justice Roberts Answer's the phone sometimes.

3/30/19

Dear Mr Barr,

When I heard that you were a close friend of Mr. Muller, I was so relieved because I was confident that you were going to be as ethical as Mr Muller is. I was shocked when you didn't refuse from taking over the Muller case. Since you wrote the memo that there was no obstruction from the dump in the summer of 2018. I worried you had not seen the facts at that point and already had an opinion.

Now you're trying to cover up for Trump and his family and I'm shocked. And scared that this is like an authoritarian gov. where a corrupt president picks his attorney that is going to set him out of this mess, it reminds me of Maduro in Venezuela! We deserve better!

I feel like I need to remind you that you are the people's attorney, NOT the president's attorney. Please don't damage the Republican party more and insult the intelligence of US citizens. We demand that you release ALL of the report as it has been done in the past. You know you are being bias. The thing is that you cannot cover the sun with one finger. There are so many legal issues and lawsuits against Trump, you won't be able to cover for all of them. The US citizens know what's going on. Release the full report ASAP. Thanks, A concerned and tax paying citizen.

Also needs to release his tax returns.

Please read on.

Federal courts have repeatedly ruled “*side-switching*” is forbidden and lawyers who engage in it must be disqualified. The D.C. Bar Association even amended the ABA Model Rules to codify the case law and state unequivocally that this conduct is prohibited and cannot be waived by anyone.¹ This complaint is not about the ethical conduct of the AG,² but rather how DOJ programs, policies and procedures produced a result so contrary to the law and legal norms. Thus, this issue falls under the jurisdiction of the Office of Inspector General, not the Office of Professional Responsibility.

Just four months ago AG Barr was defending Caterpillar Inc. in an ongoing DOJ criminal investigation. He now is sworn to investigate and prosecute Caterpillar Inc. in the *exact* same matter. His duty as the AG is directly adverse to his former representation of Caterpillar Inc. This is commonly known as *side-switching*. It is *absolutely prohibited* and *even with the informed consent of all involved clients*.³ This conflict CANNOT be waived. Common sense should dictate that when the defense lawyer is allowed to switch sides and participate or be involved in the investigation and prosecution of his former client, something is amiss. This is alarming in any event, and more so when the lawyer is the highest law enforcement officer in the nation. Shouldn't DOJ programs, policies and procedures have prevented this? Or, even address it after the fact?

AG Barr has stated in both oral and written testimony he would comply with the Rules of Professional Conduct, and federal case law, statutes and regulations. However, I found that basic rules that should already have been complied with were not even a part of his Ethics Agreement submitted to the Office of Government Ethics. Nor were these issues and rules addressed in his oral and written testimony, even though the potential problem was noted. And based on a response I received from the Office of Professional Responsibility (OPR) discussed below, he has not complied with DOJ specific regulations directly addressing this situation.

I raised this issue to the OPR including support for my complaint in the DOJ regulations⁴ confident that the OPR would investigate the matter as the conflict is apparent.⁵ I indicated that AG Barr must permanently recuse himself from participating in the DOJ investigation of Caterpillar Inc. I received a response in which the OPR summarily dismissed this issue as not warranting an investigation.⁶ The response indicates there has been no recusal,⁷ nor will there be,

¹ The D.C. Bar made specific changes to the ABA Model Rule 1.7 for the principal purpose of stating more clearly and unequivocally that there are circumstances in which representation is absolutely forbidden. This is a codification of the absolute prohibition that existed in case law. The D.C. Rule 1.7(a) mandates an absolute prohibition of multiple representation when the lawyer represents clients with *adverse positions* in the *same matter*. Client consent *cannot* cure such a conflict. *Griva v. Davison*, 637 A.2d 830, 843 (D.C. 1994).

² A complaint has been filed with the OPR regarding the employees conduct.

³ See the letter dated April 9, 2019 (copy attached), for a detailed discussion and relevant authority supporting these statements and related issues.

⁴ 28 C.F.R. § 45.2.

⁵ See letter dated February 15, 2019 (copy attached).

⁶ Email dated March 8, 2019 (copy attached).

⁷ No permanent recusal pursuant to 28 C.F.R. § 45.2. While AG Barr's Ethics Agreement provides for a general one-year recusal, this is not relevant as the Rules of Professional Conduct, case law, statutes and regulations require **complete disqualification or permanent recusal**. See the letter dated April 9, 2019 (copy attached), for a detailed

nor were the DOJ regulations followed, and nor will this matter be addressed. I believe that response to be insincere.

The response states there was no basis for my assertions because I did not provide evidence that AG Barr had a “familial” or “friendship” relationship with Caterpillar Inc. The response dismissed the fact that AG Barr had a former attorney-client relationship with Caterpillar Inc., as apparently not relevant to the issue of conflicts-of-interest. This was surprising because one of the most common concerns regarding conflicts attorneys likely have upon entering the DOJ are the attorney-client relationships they had in private practice. A reasonable interpretation of this response is that DOJ programs, policies and procedures permit *side-switching* by the highest law enforcement officer in the nation. Surely this cannot be the intended outcome.

Upon more research, I found overwhelming support in the Rules of Professional Conduct and the federal case law that *side-switching*, even on matters of far less importance than here, is an *incurable conflict of interest that cannot be waived*.⁸ Permanent recusal with effective screening measures are required. This is why Bar Association ethics attorneys with whom I have discussed side-switching matters have indicated, “That is a conflict-of-interest.” So, I submitted another complaint to the OPR including my additional research.⁹ While I am hopeful that the OPR will require and ensure compliance with all relevant laws through a permanent recusal and screening measures, I have deep concerns given the manner of the response I received and its substance.

Given what has transpired I am calling on the Office of Inspector General (OIG) to investigate how and why DOJ programs, policies and procedures allowed the current situation to come about and, based on the response I received, why this situation is being perpetuated when presented with a reasonable inquiry regarding its propriety.

I believe there to be serious questions about the DOJ programs, policies and procedures that the OIG should investigate. I propose you consider the following in your investigation.

- Aren’t former client matters with the DOJ the most apparent and potentially damaging conflicts-of-interest?
- Are there programs, policies and procedures for disclosing former clients whom an incoming attorney represented in ongoing DOJ matters to identify conflicts?
 - Were these programs, policies and procedures followed?
 - For example, AG Barr was apparently aware of un-waivable conflicts-of-interest regarding Caterpillar Inc.¹⁰
 - 28 C.F.R. § 45.2(b) requires recusal and reporting.
- Should there have been follow-up on AG Barr’s written comments to the Senate stating it’s likely his representation of Caterpillar Inc. will present conflicts-of-interest and he knows certain conflicts cannot be waived?¹¹ Why didn’t the notation of “un-waivable conflict-of-interest”

discussion and relevant authority supporting these statements and related issues.

⁸ See the letter dated April 9, 2019 (copy attached), for a detailed discussion and relevant authority supporting these statements and related issues.

⁹ See the letter dated April 9, 2019 (copy attached).

¹⁰ <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55)

¹¹ <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see

initiate inquiry?

- Why is there no mention of “un-waivable conflicts-of-interest” regarding Caterpillar Inc. in the Ethics Agreement submitted to Office of Government Ethics by the Justice Management Division?
- Why does the Ethics Agreement focus on every possible financial interest, but makes no mention of the one noted “un-waivable conflict-of-interest”?
- How and why did DOJ programs, policies and procedures allow for an absolute, incurable conflict-of-interest to go undetected?
- Shouldn’t DOJ programs, policies and procedures protect incoming attorneys like AG Barr and former clients from this very situation?
- Should AG Barr resign his position as Attorney General of the United States?
- Should AG Barr permanently recuse himself from participation in the Caterpillar investigation and the Deputy AG appoint a Special Counsel?¹²
- Should AG Barr permanently recuse himself from participation in the Caterpillar investigation and the DOJ immediately implements effective screening measures for the AG and any other appropriate personnel?
- Is the Justice Department sanctioning an apparent conflict-of-interest and creating at the very least an appearance of impropriety?

How does this situation promote overall DOJ Policy? It seems the DOJ has everything to lose, and nothing to gain, from this situation. What value or benefit does the DOJ gain from AG Barr’s involvement? Quite honestly, it is simply unfair for the DOJ programs, policies and procedures to put AG Barr or any attorney, and former clients, in this position. **His actual or even perceived possible participation or involvement contradicts DOJ norms and puts the government’s investigation at risk of Caterpillar claiming it is “tainted”.** This situation contradicts federal case law, statutes, and regulations. It contradicts the Rules of Professional Conduct. It contradicts Justice Department norms. It condones and permits a *non-waivable conflict-of-interest*; and creates the *appearance of either unfairness or favoritism toward Caterpillar Inc.*

How can DOJ programs, policies and procedures not lead to what should be a routine recusal and implementation of effective screening procedures when doing so creates no harm to anyone, and a positive outcome for everyone, including AG Barr and Caterpillar Inc.

Questions #55)

¹² See 28 CFR §600.1. A Special Counsel is appropriate because: there is already a criminal investigation underway; the AG has a conflict-of-interest; and it is always in the public interest (and legally required) for the Justice Department to avoid even the appearance of impropriety to maintain the public trust. Since effective screening measures are required here for an effective recusal of the AG and such measures were not deployed promptly, the disqualification could be imputed beyond the AG to other high-level DOJ officials. (“The screen must be erected promptly. See *Analytica, Inc. v. NPD Research Inc.*, 708 F.2d 1263, 1267-68 (7th Cir. 1983) (“[I]t was not enough that the lawyer ‘did not disclose to any person associated with the firm any information . . . on any matter relevant to this litigation,’ for ‘no specific institutional mechanisms were in place to insure that information was not shared, even if inadvertently,’ until the disqualification motion was filed—months after the lawyer had joined the firm.”); see also *United States v. Goot*, 894 F.2d 231, 235 (7th Cir. 1990) (“The predominant theme running through this court’s prior decisions is that disqualification is required when screening devices were not employed or were not timely employed.”) (emphasis added); *Atasi Corp. v. Seagate Tech.*, 847 F.2d 826, 831 (Fed. Cir. 1988) (presumption of shared confidences was not clearly overcome because oral screening measures were not timely employed or adequately communicated); *Cobb Publ’g, Inc. v. Hearst Corp.*, 907 F. Supp. 1038 (E.D. Mich. 1995) (delay of 11 or 18 days in setting up ethical wall is too long).”)

- Recusal with effective screening procedures
 - o Safeguards AG Barr's former client, thereby protecting him.
 - o Eliminates the appearance of a conflict-of-interest, bias, unfairness, etc.
 - o Complies with the Rules of Professional Conduct, and federal law & regulation.
 - o Eliminates a patent conflict-of-interest.
 - o Is consistent with AG Barr's written comments to the Senate.
- Non-recusal
 - o Puts everyone involved at-risk.
 - o Could taint a 4-year multi-agency investigation.
 - o Condone a patent conflict-of-interest, setting a terrible precedent.
 - o Creates the appearance of a conflict-of-interest, which is prohibited by all relevant authority.

There are many good people involved here. Why have the DOJ programs, policies and procedures not prevented this situation nor addressed it in hind-sight? If you have any question please contact me.

(b) (6)

May 1, 2019

Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

(b) (6)

I am filing a complaint against **William Pelham Barr – United States Attorney General**

I believe the above-named DOJ employee has engaged in unethical behavior in violation of the United States Department of Justice' own Standards of Conduct, 1-4.010, that is, "Department employees must comply with the rules on government ethics, and department attorneys must comply with applicable rules of professional conduct." By lying under oath, by misrepresenting the contents of the Mueller report to the American Public, by stating "It is not a crime" for Trump to demand staffers lie to investigators, he engaged in unethical behavior and broke professional rules of conduct.

I worked for a utility company for 39 years. If ANYONE ever demanded that employees lie to investigators, those who lied, and those who demand they lie, and those in charge of the company who allowed such egregious conduct would be prosecuted and held accountable to every letter of the law and fired, as should be expected!

William Pelham Barr should be investigated and held accountable to the rules of ethical and professional conduct as clearly established and published at www.justice.gov . He should be held fully accountable for any and all ethics violations and for the failure to maintain the professional conduct required of all practicing attorneys in the United States. If he actually broke any laws, he should be charged for criminal behavior as well. I believe lying under oath is a considered a crime in every instance.

For other documents supporting my complaint, I refer to all written and video journalistic reporting on the statements, behaviors, and testimony under oath made by William Barr.

I demand that he be held accountable for all of his obvious and public unethical conduct, for lying under oath, for misleading the American people, and for failing the Department of Justice' own standards of behavior and professional conduct he is sworn to uphold.

Thank you,

(b) (6)

AMERICAN
OVERSIGHT

The United States Department of Justice Manual – Standards of Conduct

1-4.010 - Introduction

Department employees must comply with the rules on Government ethics, and Department attorneys also must comply with applicable rules of professional conduct. Government ethics rules implement this common value: public service is a public trust, meaning that the decisions and actions that federal employees take must be made in the best interests of the American people. See 5 C.F.R. § 2635.101. Compliance with Government ethics rules and rules of professional conduct supports the credibility of and faith in government decisions and promotes the common good.

Government-wide and Departmental ethics rules and standards have several sources, including: criminal statutes (see the compilation of statutes in 5 C.F.R. § 2635.902); the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635); Office of Personnel Management Standards of Conduct (5 C.F.R. Part 735); financial disclosure requirements (5 C.F.R. Part 2634); Departmental supplemental regulations (5 C.F.R. Part 3801 and 28 C.F.R. Part 45); Departmental Human Resources (HR) Order DOJ 1200.1, Part 11, Procedures for Complying with Ethics Requirements (Sept. 12, 2003); the Hatch Act governing federal employees' political activity (5 U.S.C. § § 7324 *et seq.* and 5 C.F.R. Parts 733 & 734); Executive Order 12731, *Principles of Ethical Conduct for Government Officers and Employees*; and Department policies. These rules can be found on the website for the Departmental Ethics Office (DEO) at: <https://www.justice.gov/jmd/departamental-ethics-office>. Department employees must ensure they are aware of the Government ethics rules and the specific Government ethics policies issued by their components.

This Chapter also generally addresses requirements to report allegations of fraud, waste, abuse, or employee misconduct to OIG and/or OPR, pursuant to Department regulations at 28 C.F.R. Part 0.

The United States Department of Justice Mission Statement:

To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.

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May 19, 2018

Corey R. Amundson
Director Office of Professional Responsibility
U.S. Department of Justice Suite 3266
950 Pennsylvania Avenue N.W. Washington, DC 20530

Dear Director Amundson:

I am a USA taxpayer, citizen, voter, and community participant in support of ethical and quality government actions per guidance of the US Constitution, applicable laws, norms, and standards. I write to you with a serious concern about Attorney General William Barr.

I request that the Office of Professional Responsibility (OPR) investigate Attorney General William Barr's odd and unprofessional conduct in his handling of the Special Counsel's Investigation / Report. The Special Counsel delivered its report to Attorney General Barr on March 22, 2019. Two days later, on March 24, Barr sent a four-page letter of the report to Congress, one that appeared to distort, distract, and delay the stated conclusions of Russian interference in the 2016 presidential election and obstruction of justice.

Given the \$20+ million dollar investment by the USA taxpayers to examine concerns of Russian interference in the 2016 United States elections and suspicious links between Trump associates and Russian officials, from May 2017 to March 2019, the handling and findings of this report are of great magnitude to the future of our democracy.

Unfortunately, Attorney General Barr's lack of skill or bias has continued in his odd and unprofessional actions around these issues. The popular criticism that the Attorney General is acting as President Trump's personal attorney and not as the Attorney General of the United States makes light of this serious issue.

My concern and request is based upon well established employment ethics: William Barr, in his paid employment as Attorney General, has a fiduciary responsibility of public trust that is fulfilled by acting in good faith and with care, candor, and loyalty in executing his duties. His current behaviors and attitudes are far below acceptable job standards and requires your response.

I know all my fellow taxpayers, regardless of their political leanings, support you in your work to uphold the highest standards of conduct for all officials of the Justice Department.

Sincerely,

(b) (6)

Cc:

Cynthia K. Shaw Director

Departmental Ethics Office U.S. Department of Justice Room 1111 950 Pennsylvania Avenue N.W. Washington, DC 20530

Michael E. Horowitz Inspector General U.S. Department of Justice Office of the Inspector General 950 Pennsylvania Avenue, N.W., Suite 4706 Washington, D.C. 20530

CREW | citizens for responsibility and ethics in washington

May 20, 2019

Assistant Attorney General Lee J. Lofthus
Justice Management Division and
Designated Agency Ethics Official
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 1111
Washington, D.C. 20530-0001

Re: Recusal of Attorney General William P. Barr from the Special Counsel and
Related Investigations

Dear Mr. Lofthus:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that you withdraw any ethics advice or authorization that Attorney General William P. Barr may be relying on to support his participation in Special Counsel Robert S. Mueller’s investigation into Russian interference in the 2016 Presidential election (“Special Counsel Investigation”) and related investigations, and advise him to recuse from any cases that Special Counsel Mueller transferred or referred to other components of the Department of Justice (“DOJ”) and the Federal Bureau of Investigation (“FBI”) arising out of the Special Counsel Investigation.¹

CREW previously raised questions about the propriety of Attorney General Barr’s participation in the Special Counsel Investigation because he appeared to have prejudged it based on his prior involvement in the matter while in private practice, and because his decision to issue a four-page letter to Congress about the Mueller Report prior to its public release appeared to be an attempt to skew public opinion in favor of President Donald J. Trump.² Attorney General Barr’s conduct since assuming supervisory responsibility for the Special Counsel Investigation continues to raise significant concerns that he is acting without the requisite impartiality necessary to oversee these matters.

The seriousness of these concerns is heightened by recent evidence that Attorney General Barr may have misled Congress and the public about the substance of the Mueller Report in advance of its release. A recently-disclosed March 27 letter from Special Counsel Mueller to Attorney General Barr states that Mr. Barr’s March 24 “summary” letter “did not fully capture

¹ Special Counsel Robert S. Mueller, Report On The Investigation Into Russian Interference In The 2016 Presidential Election (“Special Counsel Report” or “Mueller Report”), Mar. 2019, *available at* <https://www.justice.gov/storage/report.pdf>.

² Letter from Noah Bookbinder to Attorney General William P. Barr (“Bookbinder Letter”), Apr. 11, 2019, *available at* <https://bit.ly/2fN1ZXe> (“CREW letter”); Letter from Attorney General William P. Barr to Senate Judiciary Committee Chairman Lindsey Graham, House Judiciary Committee Chairman Jerrold Nadler, Senate Judiciary Committee Ranking Member Dianne Feinstein, House Judiciary Committee Ranking Member Doug Collins (“March 24 Barr Letter”), Mar. 24, 2019, *available at* <https://nyti.ms/2HPoauB>.

the context, nature, and substance” of the report.³ Special Counsel Mueller indicated that this development has led to “public confusion about critical aspects of the results” of the investigation, which “threatens to undermine . . . full public confidence in the outcome of the investigations.”⁴ Attorney General Barr has further undermined public confidence by failing to release the Special Counsel Office’s prepared summary in a timely fashion and by misleading members of Congress in recent testimony he gave about the Special Counsel Report.

Attorney General Barr has engaged in a pattern of conduct that calls into question his objectivity on criminal matters that implicate the President or the President’s businesses, associates, or political organizations. Because of the appearance of impropriety caused by Attorney General Barr’s continued involvement in these matters, he should be required to recuse from all of them.

Under these circumstances, the applicable standards of conduct, at 5 C.F.R. § 2635.502 and Justice Manual § 1-4.020, clearly contemplate for him to recuse.⁵ Nevertheless, Attorney General Barr, relying on the advice of senior DOJ ethics officials, decided not to recuse from the Special Counsel Investigation. To prevent any further damage to public confidence in the outcome of DOJ’s investigations, CREW respectfully requests you withdraw any previous ethics guidance or authorization given to Attorney General Barr that may apply to these matters and advise him to immediately recuse from overseeing any related investigations.⁶

Factual Background

Attorney General Barr Shared His Written Analysis of the Obstruction Case Prior to His Nomination

Prior to being nominated as Attorney General, Mr. Barr shared his opinions about the obstruction of justice case against President Trump with Department of Justice officials in a lengthy 19-page memorandum in which he argued that the theory of liability being pursued was “inconceivable” and “fatally misconceived.”⁷ In addition to sending this opinion to the Department of Justice, Mr. Barr discussed or provided his legal opinion to members of President Trump’s White House legal team, President Trump’s personal lawyers, and lawyers who represented likely subjects of the investigation.⁸ Mr. Barr also confirmed in his Senate

³ Letter from Special Counsel Robert S. Mueller to Attorney General William P. Barr, Mar. 27, 2019 (“March 27 Mueller Letter”), available at <https://wapo.st/2XWbPK3>; Devlin Brett and Matt Zapotosky, Mueller complained that Barr’s letter did not capture ‘context’ of Trump probe, *Washington Post*, Apr. 30, 2019, available at <https://wapo.st/2XYPg7r>; Mark Mazzetti and Michael S. Schmidt, Mueller Objected to Barr’s Description of Russia Investigation’s Findings on Trump, *New York Times*, Apr. 30, 2019, available at <https://nyti.ms/2ZOZJnU>.

⁴ *Id.*

⁵ See also Richard Painter and Virginia Canter, William Barr’s view of Russia recusal could undermine all government ethics programs, *USA Today*, Jan. 29, 2019, available at <https://bit.ly/2HNk07v>.

⁶ Special Counsel Report, Appendix D, Special Counsel’s Office Transferred, Referred and Completed Cases, at D-1 - D-6.

⁷ Memorandum from Bill Barr to Deputy Attorney General Rod Rosenstein and Assistant Attorney General Steve Engel, Mueller’s “Obstruction” Theory, June 8, 2018 (“Barr Memo”), available at <https://bit.ly/2FrLiwi>.

⁸ Michael Balsamo, AG nominee sent memo on Mueller probe to Trump’s lawyers, *Associated Press*, Jan. 14, 2019, available at <https://bit.ly/2Kn7ddX>.

confirmation hearing that he met with President Trump about a potential role on his legal defense team, which he ultimately turned down.⁹ As CREW previously explained, Attorney General Barr's prior involvement in the matter while in private practice appears to have compromised his ability to act impartially in overseeing the Special Counsel Investigation.¹⁰

Attorney General Barr Decided Not to Recuse from the Special Counsel Investigation Based on Advice from Ethics Officials

During his Senate confirmation process, Attorney General Barr was questioned about the "unsolicited advice" he gave to President Trump's legal team and to DOJ, and "public concern[s]" about his "unwillingness" to recuse from the Special Counsel Investigation or to "follow the recusal guidance of career DOJ ethics officials, as past attorneys general have generally done."¹¹ Attorney General Barr "rebuffed" these efforts and declined to "pledge" to follow the advice ethics officials gave him on the issue.¹² While Attorney General Barr committed to be "as transparent as possible," "consult with the Department's career ethics officials," and "review the facts," he represented that he would make his own decision regarding recusal from the Special Counsel Investigation and any other matter.¹³

Notwithstanding the concerns raised about his prior involvement in the matter, the Justice Department announced in early March that Attorney General Barr had decided not to recuse from the Special Counsel Investigation, basing his decision on advice he received from senior career ethics officials not to recuse.¹⁴ However, no documentation of this ethics advice is known to have been made publicly available, notwithstanding Attorney General Barr's commitment to transparency.

Attorney General Barr's Subsequent Actions Regarding the Special Counsel Report Heightens the Appearance of Impropriety

After assuming supervision of the Special Counsel Investigation, Attorney General Barr made a series of statements and decisions about the Special Counsel Report that substantially amplify the appearance of impropriety.

⁹ Barr describes his meeting with Trump in 2017, CNN, Jan. 15, 2019, available at <https://bit.ly/2UmDyGw>.

¹⁰ See also CREW Letter; Natasha Bertrand, Barr gets waiver on case linked to inquiry into Trump's re-election effort, Politico, Apr. 23, 2019, available at <https://politi.co/2KXU8Ic>. Additional concerns about Attorney General Barr's potential conflicts may arise from Mr. Barr's son-in-law working in the White House Counsel's Office and Mr. Barr's ethics waiver by the White House Counsel to allow his participation in a matter related to Trump Victory committee, a political action committee dedicated to re-electing Trump in 2020.

¹¹ William P. Barr, Responses to Questions for the Record from Senator Sheldon Whitehouse ("Responses to Whitehouse QFRs"), at 20, available at <https://bit.ly/2Jk5Yul>.

¹² Josh Gerstein, Barr won't recuse himself from Mueller oversight, Politico, Mar. 4, 2019, available at <https://politi.co/2EMKPWp>.

¹³ Responses to Whitehouse QFRs, at 20.

¹⁴ Laura Jarrett, Attorney General Bill Barr won't recuse from oversight of Russia investigation, CNN, Mar. 4, 2019, available at <https://cnn.it/2GXOSPK>.

Attorney General Barr's March 24 Letter to Congress

Attorney General Barr issued the March 24 Barr Letter, which purported to “summarize” in four pages the “principal conclusions reached by the Special Counsel and the results of his investigation.”¹⁵ In the letter, Attorney General Barr announced, among other things, that Special Counsel Mueller had determined not to reach a traditional prosecutorial judgment on the question of whether President Trump obstructed justice; nevertheless, Attorney General Barr stated that he and Deputy Attorney General Rod Rosenstein “have concluded that the evidence developed during the Special Counsel’s Investigation is not sufficient to establish that the President committed an obstruction-of-justice offense.”¹⁶

Attorney General Barr reached those conclusions even though he had received a copy of the 448-page confidential report less than 48 hours earlier.¹⁷ He also issued the March 24 Barr Letter despite being told by the Special Counsel Office on two prior occasions, March 5 and in the early afternoon of March 24, that the introduction and executive summaries contained in the Special Counsel Report “accurately summarize[d]” the Special Counsel Office’s work and conclusions (“Mueller Summary Materials”).¹⁸

Special Counsel Mueller’s Communications to Attorney General Barr About Deficiencies in the March 24 Barr Letter

Beginning the next day, March 25, Special Counsel Mueller expressed dissatisfaction with the contents of the March 24 Barr Letter through a series of communications with Attorney General Barr and DOJ, culminating in a March 27 letter requesting that the Attorney General Barr publicly release the “accurate” summary that had been prepared by his office.¹⁹ The relevant communications are as follows:

- On March 25, the Special Counsel Office communicated to DOJ that the March 24 Barr Letter did not fully capture “the context, nature, and substance” of the Special Counsel Office’s work and conclusions.²⁰
- Separately that same day, Special Counsel Mueller sent a letter to Attorney General Barr enclosing a redacted version of the Mueller Summary Materials, with two sentences still under review.²¹

¹⁵ March 24 Barr Letter, at 1.

¹⁶ *Id.* at 3.

¹⁷ Oliver Laughland, What we learned from Barr’s summary of the Mueller report, *The Guardian*, Mar. 29, 2019, available at <https://bit.ly/2U6FF0d>.

¹⁸ March 27 Mueller Letter.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

- On March 27, Special Counsel Mueller sent a second letter to Attorney General Barr, enclosing the final redacted version of the Mueller Summary Materials with the two remaining sentences cleared for public release.²²
- Special Counsel Mueller explicitly requested in that letter, for Barr to “provide these materials to Congress and authorize their public release at this time.”²³
- Most significantly, Special Counsel Mueller gave a damning review of the March 24 Barr Letter, explaining that it “did not fully capture the context, nature, and substance” of the Office’s work and conclusions, and “[t]here is now public confusion about critical aspects of the results of our investigation,” which “threatens to undermine a central purpose for which the Department appointed the Special Counsel: to assure public confidence in the outcome of the investigations.”²⁴
- Finally, Special Counsel Mueller explained that release of the Mueller Summary Materials “at this time would alleviate the misunderstandings that have arisen and would answer congressional and public questions about the nature and outcome of our investigation.”²⁵

On March 28, Attorney General Barr called Special Counsel Mueller to discuss the March 27 Mueller Letter.²⁶ Special Counsel Mueller reportedly expressed concern that “media coverage of the obstruction probe was misguided and creating public misunderstandings about the office’s work.”²⁷ While a Justice Department spokeswoman subsequently stated that Special Counsel Mueller “emphasized” during that call that nothing in the March 24 Barr Letter was “inaccurate or misleading,”²⁸ that statement seems to be at odds with the messages previously conveyed to Attorney General Barr by Special Counsel Mueller.²⁹

In a March 29 letter to the chairs of the House and Senate Judiciary Committees, Attorney General Barr explained that the March 24 Barr Letter “was not, and did not purport to be, an exhaustive recounting of the Special Counsel’s investigation or report.”³⁰ Attorney General Barr further wrote that he “[did] not believe it would be in the public’s interest for me to attempt to summarize the full report or to release it in serial or piecemeal fashion.”³¹ Yet, that

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Devlin Brett and Matt Zapotosky, Mueller complained that Barr’s letter did not capture ‘context’ of Trump probe, *Washington Post*, Apr. 30, 2019, available at <https://wapo.st/2XYPg7r>; Mark Mazzetti and Michael S. Schmidt, Mueller Objected to Barr’s Description of Russia Investigation’s Findings on Trump, *New York Times*, Apr. 30, 2019, available at <https://nyti.ms/2ZOZJnU>.

²⁷ Brett and Zapotosky, *Washington Post*, Apr. 30, 2019.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Letter from Attorney General William P. Barr to Senate Judiciary Committee Chairman Lindsey Graham and House Judiciary Committee Chairman Jerrold Nadler, Mar. 29, 2019, available at <https://bit.ly/2H51Ifa>.

³¹ *Id.*

statement is inconsistent with his own characterization of the March 24 Barr Letter, in which he referred to it as having “summarize[d]” the “principal conclusions” of the Mueller Report.³²

Rather than agreeing to the Special Counsel’s request to send the Mueller Summary Materials to Congress and for public release within the requested time frame, Attorney General Barr withheld this material for another three weeks, until April 18, when he released it as part of the larger Special Counsel Report.

Attorney General Barr’s April 9 and 10 Congressional Testimony

In the meantime, Attorney General Barr also appears to have given misleading testimony on April 9 and 10, in response to questions raised by members of Congress about the Special Counsel’s reaction to the March 24 Barr Letter.

In an appropriations subcommittee hearing, on April 9, Representative Charlie Crist noted that there were reports that “members of the special counsel’s team are frustrated . . . with the limited information included in your March 24th letter, that it does not adequately or accurately, necessarily, portray the report’s findings.”³³ He then asked Barr, “do you know what they’re referencing with that?”³⁴ Attorney General Barr responded “No, I don’t. I think, I think, I suspect that they probably wanted, you know, more put out. But in my view, I was not interested in putting out summaries or trying to summarize, because I think any summary regardless of who prepares it not only runs the risk of, you know, being under-inclusive or over-inclusive but also, you know, would trigger a lot of discussion and analysis that really should await everything coming out at once.”³⁵

On April 10, when asked by Senator Chris Van Hollen about whether Special Counsel Mueller supported the conclusion reached by Attorney General Barr on the question of whether President Trump had obstructed justice, Barr responded “I do not know whether Bob Mueller supported my conclusion.”³⁶

Attorney General Barr’s responses to these questions appear to be misleading since he indisputably knew of Special Counsel Mueller’s dissatisfaction with the March 24 Barr Letter from having received the March 27 Mueller Letter, which included an explicit request that the Mueller Summary Materials be released at that time, and from his other communications with Special Counsel Mueller. Attorney General Barr also knew Special Counsel Mueller likely disagreed with the conclusion Mr. Barr reached on obstruction of justice since it materially differed from the analysis presented by Special Counsel Mueller on that issue.

³² March 24 Barr Letter, at 1.

³³ Testimony of William P. Barr Responding to Questions by Representative Charlie Crist, Hearing before the House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, Apr. 9, 2019, *available at* <https://cs.pn/2vxCh0l>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Testimony of William P. Barr Responding to Questions by Senator Chris Van Hollen, Hearing before the Senate Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies, Apr. 10, 2019, *available at* <https://cs.pn/2GXCvEH>.

In particular, Attorney General Barr knew from the Mueller Report that the Special Counsel had examined multiple instances of possible obstruction of justice and determined that President Trump could not be exonerated based on the evidence, and the report appeared to conclude that the elements of obstruction had been met in multiple instances.³⁷ The Special Counsel also determined not to make a traditional prosecutorial judgment based on a DOJ opinion issued by the Office of Legal Counsel (“OLC”) that a sitting President could not be indicted and because of other fairness considerations.³⁸ The Special Counsel Report left open the possibility of Congressional action and a post-Presidency indictment.³⁹ These conclusions are materially different from, and possibly undermined by, the conclusion presented in the March 24 Barr Letter that the evidence was insufficient to establish that the President obstructed justice.

The actions taken by Attorney General Barr to expeditiously release his own summary of the Mueller Report while forestalling the release of the Mueller Summary Materials appear to be deliberate, and may have helped President Trump, his communications team, and personal attorneys shape the narrative during the critical three-week period following these events and before damaging evidence against President Trump would be made publicly available through release of the Special Counsel Report. In this light, Attorney General Barr’s actions appear to be inconsistent with the independence expected of a Justice Department official and jeopardize any appearance of impartiality.

Attorney General Barr Shared an Advance Copy of the Mueller Report with President Trump’s Personal Attorneys

Attorney General Barr made available an advance copy of the Mueller Report to President Trump’s personal attorneys earlier that week before copies were provided to Congress and released to the general public. On the morning of April 18, the day he publicly released the Mueller Report, Attorney General Barr held a press conference in which he revealed that he allowed President Trump’s personal legal counsel to review the report earlier that week before its public release.⁴⁰ Although Attorney General Barr explained that his decision was “consistent with the practice followed under the Ethics in Government Act,”⁴¹ he also knew that that the relevant provisions of that law were removed by Congress when it reviewed the Independent Counsel provisions in 1999.⁴²

The actions taken by Attorney General Barr gave President Trump’s personal attorneys advance knowledge about the contents of the Special Counsel Report and likely helped them develop their public relations strategy when responding to questions in the immediate aftermath of its release. Since Attorney General Barr was under no apparent legal obligation to give the

³⁷ Special Counsel Report, Vol. II, at 2, 8.

³⁸ *Id.* at 1-8.

³⁹ *Id.* at 177-78.

⁴⁰ Transcript of William P. Barr Press Conference, *Politico*, Apr. 18, 2019 (“Barr Press Conference”), *available at* <https://politi.co/2XM2owL>.

⁴¹ *Id.*

⁴² *See, e.g.*, 28 U.S.C. § 599 (termination of Independent Counsel statute).

President's personal attorneys an advance copy and the Special Counsel was not at the April 18 press conference to weigh in contemporaneously, Attorney General Barr's actions detract from the perception of impartiality that is expected of the Department of Justice.⁴³

Attorney General Barr Made Misleading Statements About the Special Counsel Report in His March 24 Letter and April 18 Press Conference

In the March 24 Barr Letter and April 18 press conference, Attorney General Barr appears to have repeatedly misled the American people about the contents of the Mueller report. These efforts included the following:

- Attorney General Barr misled the public when he claimed that the White House “fully cooperated” with the investigation.⁴⁴ To the contrary, the record from the Mueller Report shows that President Trump was not cooperative. President Trump declined to be voluntarily interviewed after more than a year of discussion.⁴⁵ In fact, rather than being “fully” cooperative, President Trump imposed significant limitations on Special Counsel Mueller’s ability to question him. After more than a year of “extensive discussions,” President Trump did not sit for an in-person interview for the investigation on any subject; did not respond to any questions – either written or oral – about obstruction of justice; only submitted to written questions about Russia-related topics; provided insufficient responses on more than 30 occasions by stating he “does not recall” or “remember” or have an “independent recollection” of information called for by the questions; and gave other “incomplete or imprecise” answers.⁴⁶
- Attorney General Barr misled the public when he suggested that the Special Counsel recognized that the absence of charges against President Trump for misconduct relating to Russia’s interference and hacking campaigns, while “not determinative,” was a reason to conclude that the President lacked the requisite intent to obstruct justice.⁴⁷ In fact, the Special Counsel Report makes clear that obstruction does not require proof of a crime. Rather, the “absence of that evidence” only “affects the analysis of the President’s intent and requires consideration of other possible motives for his conduct,” including “a desire to protect non-criminal personal interests, to protect against investigations where underlying criminal liability falls into a gray area, or to avoid personal embarrassment. . . . regardless of whether a person committed an underlying wrong.”⁴⁸
- Attorney General Barr misled the public when he suggested that the Special Counsel did not decide against making a determination about the crime of obstruction of justice based

⁴³ Barr Press Conference.

⁴⁴ *Id.*

⁴⁵ Special Counsel Report, Vol. II pg. 13, Appendix C-1.

⁴⁶ *Id.*

⁴⁷ March 24 Barr Letter (“[W]e noted that the special counsel recognized that ‘the evidence does not establish that the president was involved in an underlying crime related to Russian election interference,’ and that, while not determinative, the absence of such evidence bears upon the president’s intent with respect to obstruction.”).

⁴⁸ Special Counsel Report, Vol. II, at. 7, 157.

on the OLC opinion,⁴⁹ when the Special Counsel Report clearly indicates it was a material factor. The Special Counsel accepted the conclusion of the OLC opinion, which was used as a basis for declining to make a traditional prosecutorial judgment:

A traditional prosecution or declination decision entails a binary determination to initiate or decline a prosecution, but we determined not to make a traditional prosecutorial judgment. The Office of Legal Counsel (OLC) has issued an opinion finding that ‘the indictment or criminal prosecution of a sitting president would impermissibly undermine the capacity of the executive branch to perform its constitutionally assigned functions in violation of the constitutional separation of powers.’ Given the role of the Special Counsel as an attorney in the Department of Justice and the framework of the Special Counsel regulations, see 28 .S.C. § 515; 28 C.F.R. § 600.7(a), this Office accepted OLC’s legal conclusion for the purpose of exercising prosecutorial jurisdiction.⁵⁰

- Attorney General Barr misled the public when he concluded “that the evidence developed during the Special Counsel’s investigation is not sufficient to establish that the President committed an obstruction-of-justice offense.”⁵¹ The Special Counsel Report explicitly states that “while this report does not conclude that the President committed a crime, it also does not exonerate him.”⁵² Special Counsel Mueller also noted that his office “conducted a thorough factual investigation in order to preserve the evidence when memories were fresh and documentary materials were available,”⁵³ and asserted that if his office “had confidence after a thorough investigation of the facts that the President clearly did not commit obstruction of justice, [they] would so state.”⁵⁴ The report analyzed multiple instances of obstruction of justice,⁵⁵ and found substantial, supporting or similar evidence of obstruction of justice in at least eight instances.⁵⁶ Attorney General Barr’s conclusion also is at odds with the views of more than 900 prosecutors who signed a letter stating that the conduct attributed to President Trump, “would, in the case of any other person not covered by the Office of Legal Counsel policy against indicting a sitting President, result in multiple felony charges for obstruction of justice.”⁵⁷ Moreover,

⁴⁹ Zachary Basu, Transcript: Bill Barr answers questions about Mueller report, *Axios*, Apr. 18, 2019, available at <https://bit.ly/2LOi69z> (“We specifically asked him about the OLC opinion and whether or not he was taking a position that he would have found a crime but for the existence of the OLC opinion. And he made it very clear several times that that was not his position. He was not saying that but for the OLC opinion, he would have found a crime.”).

⁵⁰ Special Counsel Report, Vol. II, at 1.

⁵¹ March 24 Barr Letter.

⁵² Special Counsel Report, Vol. II, at 2, 8.

⁵³ *Id.*, Vol. II, at 2.

⁵⁴ *Id.*, Vol. II, at 1.

⁵⁵ *Id.*, Vol. II, at 15-158.

⁵⁶ See Quinta Jerecic, Obstruction of Justice in the Mueller Report: A Heat Map, *Lawfare*, Apr. 21, 2019, available at <https://bit.ly/2Gxfirg>.

⁵⁷ DOJ Alumni Statement, *Statement by Former Federal Prosecutors*, *Medium*, May 20, 2019, available at <https://medium.com/@dojalumni/statement-by-former-federal-prosecutors-8ab7691c2aa1>. The figure of reported former prosecutors is calculated based on more than 900 signatures being registered as of May 20, 2019.

Attorney General Barr reached his conclusion without the benefit of having personally reviewed any of the underlying evidence.⁵⁸

- Attorney General Barr misled the public when he conveyed that the determination of whether President Trump's conduct constituted a crime of obstruction of justice was left to him because Special Counsel Mueller could not reach a conclusion due to "difficult issues" of fact and law.⁵⁹ First, there is no language in the Mueller Report that would indicate that the Special Counsel left those "difficult issues" to the Attorney General to resolve. Rather, the Special Counsel Report suggests other avenues for addressing presidential misconduct after setting forth a detailed and comprehensive analysis of why a traditional prosecutorial judgment was not determined appropriate in this case.⁶⁰ The Special Counsel explicitly identifies Congress's role in making assessments involving the President's official conduct:

In the case of the obstruction-of-justice statutes, our assessment of the weighing of interests leads us to conclude that Congress has the authority to impose the limited restrictions contained in those statutes on the President's official conduct to protect the integrity of important functions of other branches of government.⁶¹

The Mueller Report also leaves open the possibility of a post-presidency indictment. As discussed above, Special Counsel Mueller made clear that the report "does not exonerate" President Trump.⁶² And after finding evidence of obstruction of justice in at least eight instances, he discussed more avenues for addressing presidential misconduct, including legal action against a former president:

A possible remedy through impeachment for abuses of power would not substitute for potential criminal liability after a President leaves office. Impeachment would remove a President from office, but would not address the underlying culpability of the conduct or serve the usual purposes of the criminal law. Indeed, the Impeachment Judgment Clause recognizes that criminal law plays an independent role in addressing an official's conduct, distinct from the political remedy of impeachment. See U.S. CONST. ART. I, § 3, cl. 7. Impeachment is also a drastic and rarely invoked remedy, and Congress is not restricted to relying only on impeachment, rather than making criminal law applicable to a former President, as OLC has recognized. *A Sitting President's Amenability to Indictment and Criminal Prosecution*, 24 Op. O.L.C. at 255 ("Recognizing an immunity from prosecution for a sitting President would not preclude

⁵⁸ Testimony of Attorney General Barr, Senate Judiciary Committee, *C-SPAN*, May 1, 2019, available at <https://bit.ly/2UY7PGQ> (Question Posed by Senator Kamala Harris, at approximately 1:05 minute mark).

⁵⁹ March 24 Barr Letter, at 3.

⁶⁰ Special Counsel Report, Vol. II, at 1.

⁶¹ *Id.*, Vol. II, at 177.

⁶² *Id.*, Vol. II, at 2, 8.

such prosecution once the President's term is over or he is otherwise removed from office by resignation or impeachment."').⁶³

Attorney General Barr's conduct also must be considered in the context of the loyalty demanded by President Trump and his repeated attempts to interfere with investigations that could implicate him. President Trump has made it known that he expects his Attorney General to protect him in the image of Roy Cohn, his former personal lawyer and fixer.⁶⁴ President Trump has openly and privately made it clear that he will exert political and personal pressure on the Department of Justice to obtain loyalty.⁶⁵ His pattern of conduct towards the office of the Attorney General, as detailed in Special Counsel Mueller's report, makes it particularly critical that the Attorney General not be tainted by the appearance of bias towards the President. Special Counsel Mueller detailed numerous instances where the President attempted to impede the ongoing Russia investigation by threatening and attacking former Attorney General Jeff Sessions. Those include:

- Expressing anger at Attorney General Sessions's decision to recuse from the Russia investigation and declaring that he should have "an Attorney general who would protect him";⁶⁶
- Urging Attorney General Sessions to "unrecuse" from the investigation;⁶⁷
- Directing his former campaign manager to demand that Attorney General Sessions "end the existing investigation into the President and his campaign" and permit the Special Counsel to "move forward with investigating election meddling in future elections";⁶⁸
- Telling Attorney General Sessions to take back supervision of the Russia investigation and become a "hero";⁶⁹
- Directing Attorney General Sessions to "take [a] look" at investigating his political opponent Hillary Clinton.⁷⁰

⁶³ *Id.*, Vol. II, at 178, n. 1091.

⁶⁴ Michael S. Schmidt, *Obstruction Inquiry Shows Trump's Struggle to Keep Grip on Russia Investigation*, *New York Times*, Jan. 4, 2018, available at <https://nyti.ms/2lVq6oR>.

⁶⁵ See, e.g., Jennifer Hansler, *Trump's Twitter attacks on Sessions: an annotated timeline*, *CNN*, Aug. 25, 2018, available at <https://www.cnn.com/2018/08/25/politics/trump-sessions-twitter-timeline/index.html> (detailing all of the President's public attacks on the Attorney General).

⁶⁶ Special Counsel Report, Vol. II, at 3.

⁶⁷ *Id.*

⁶⁸ *Id.*, Vol. II, at 97.

⁶⁹ *Id.*, Vol. II, at 5.

⁷⁰ *Id.*

Legal Analysis

“Public service is a public trust,” which means that “decisions and actions that federal employees take must be made in the best interests of the American people.”⁷¹ Putting that objective into practice, the government-wide Standards of Conduct require all executive branch employees to act impartially and to avoid any actions creating the appearance that they are violating the applicable ethical standards.⁷² Similarly, the core principles of federal prosecution require federal prosecutors to “promote confidence that important prosecutorial decisions will be made rationally and objectively on the merits of each case.”⁷³ The success of the federal prosecutorial system “must rely ultimately on the character, integrity, sensitivity, and competence of those men and women who are selected to represent the public interest in the federal criminal justice process.”⁷⁴

For these reasons, an executive branch employee who is aware of circumstances that would raise a question regarding his impartiality is expected to consult with the agency ethics official to determine whether to participate in a particular matter.⁷⁵ DOJ’s standards of conduct further make explicit the requirement that “an employee should contact his or her ethics official for advice or approval when the employee . . . is asked to participate in a matter that might cause a reasonable person to question his or her impartiality.”⁷⁶

For a criminal investigation that affects the President, his business, associates, and political organizations, the stakes could not be higher, and the Attorney General is expected to act with the highest degree of independence and integrity. Yet, Attorney General Barr’s conduct reveals a disturbing pattern that suggests his impartiality has been materially impaired.

In addition to having been previously involved in the matter while in private practice, Attorney General Barr has taken numerous actions since being confirmed that have undermined public confidence in his handling of the Special Counsel Report. By issuing the March 24 Barr Letter, Attorney General Barr appears to have misled Congress and the public about the substance of the Special Counsel Report. Even after having been expressly warned about the shortcomings of the March 24 Barr Letter, Attorney General Barr failed to timely release the Mueller Summary Materials as requested by the Special Counsel so as to ensure that an accurate summary of the report was made available to the public to immediately address misunderstandings that arose from his summary letter.

As a consequence of these actions, questions raised about the Special Counsel Report were left unanswered and various misunderstandings about its work and conclusions were left unaddressed. This situation continued for at least three more weeks until April 18 when the

⁷¹ Justice Manual § 1-4.010.

⁷² 5 C.F.R. §§ 2635.101(b)(8), (14).

⁷³ Justice Manual § 9-27.001.

⁷⁴ *Id.*

⁷⁵ 5 C.F.R. §§ 2635.502(a)(2), (d).

⁷⁶ Justice Manual § 1-4.020. *See* 5 C.F.R. 2635.102(b) (“Where the conduct in issue is that of the agency head” any required “determination, approval or action” is to “be made or taken by the agency head in consultation with the designated agency ethics official.”)

Special Counsel Report was released in its entirety, with redactions. Attorney General Barr also appears to have misled Congress in his April 9 and 10 testimony by not revealing relevant information he knew from the March 27 Mueller Letter and to have made additional misleading statements about the Special Counsel Report in the April 18 press conference.

By taking these and other actions, Attorney General Barr appears to have unduly favored President Trump over the interests of the American people who were entitled to an independent and unfiltered accounting of the work and conclusions of the Special Counsel. Attorney General Barr's decision-making regarding obstruction of justice evidences a bias that compromises his ability to place the interests of the American people before the interests of President Trump.

Under these circumstances, the applicable standards of conduct, at 5 C.F.R. § 2635.502 and Justice Manual § 1-4.020, contemplate for Attorney General Barr to recuse. However, in announcing Attorney General Barr's decision in early March not to recuse from the Special Counsel Investigation, the Justice Department indicated that career DOJ ethics officials advised Attorney General Barr not to recuse himself. To the extent that your office previously advised Attorney General Barr that he could participate in the Special Counsel Investigation and related matters, we urge you to withdraw that advice or authorization and advise Attorney General Barr to recuse from those matters so as to avoid any further damage to public confidence in DOJ's investigations.

Conclusion

In overseeing the Special Counsel investigation, Attorney General Barr appears to have improperly placed President Trump's personal interests ahead of his obligations to the American people. As the designated agency ethics official for the Justice Department, you have a unique and overriding obligation to the American public to ensure that public confidence in the integrity of DOJ investigations is not further undermined by actions undertaken by Attorney General Barr due to his evident lack of impartiality.

In unparalleled circumstances such as these, public interest in maintaining confidence in the fairness and impartiality of DOJ processes demands the highest form of ethical leadership; that is, for you to provide clear and unambiguous advice to the Attorney General when his conduct undermines public confidence in DOJ's investigative process and outcomes.

Any further reliance by Attorney General Barr on ethics advice provided by your office undermines public confidence in DOJ's handling of the Special Counsel Report and the related investigations. To prevent any further damage, CREW respectfully requests you withdraw your previous ethics advice or authorization regarding the Special Counsel Investigation and related

Assistant Attorney General Lee J. Lofthus

May 20, 2019

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investigations and advise Attorney General Barr to immediately recuse from overseeing these matters.

Sincerely,



Noah Bookbinder
Executive Director

cc: Attorney General William P. Barr
Michael E. Horowitz, Inspector General, Department of Justice
Corey Amundson, Director and Chief Counsel, Office of Professional Responsibility,
Department of Justice

Complaint Against William P Barr

Barrx

To: Washington DC Bar Association
Virginia Bar Association

From:

(b) (6)

United States Dept
of Justice
Office of Professional Responsibility

Date: 05-29-2019

Re: Misconduct of William P Barr

I hereby make the following allegations/complaint against **William P Barr** for violations of ethical/disciplinary provisions of the DC Rules of Professional Conduct, and applicable provision in the Virginia Bar Association and US DOJ.

3.3 DC Rules of Professional Conduct.

Barr made a **false statements to Congress** in violation of provisions stating that a lawyer, "shall not knowingly: (1) Make a false statement of fact or law previously made to the tribunal by the lawyer."

- (A) **Testimony before Congress.** Barr falsely stated that Special Counsel Robert Mueller agreed with (Barr's) representations in his letter regarding the Special Counsel's report. Barr had previously received a strongly-worded letter and received a phone call from Mueller, which criticized the representations made in Barr's letter.
- (B) **Letter to Congress** purporting to be a 4-pg "summary" of the report, which involved misrepresentation of the contents of the report.

3.4(a) DC Rules of Professional Conduct.

Delaying and withholding material information. Barr knowingly obstructed Congress access to evidence by refusing to turnover more of the un-redacted Mueller report.

4.1 DC Rules of Professional Conduct.

Barr made a **false statement of fact or law to a third person** in his misleading press conference and letter "summarizing" the Mueller report.

4.4(a) DC Rules of Professional Conduct

(a) Barr used means that have no substantial purpose other than to embarrass, delay, or burden a third person" by **delaying the release of the report**, especially while issuing his own misleading 4-pg "summary."

(b) Barr **stated that "spying" on the Trump campaign occurred**. (*Testimony before Congress April 10, 2019*). He has never retracted that statement. It is an unnecessarily inflammatory statement that Barr knew would be improperly used by Trump and his supporters against those investigating Trump in Congress, and also the negative findings in the Mueller report. At the time Barr made the statement, he knew that he had no specific evidence to support it.

1.13(d) DC Rules of Professional Conduct.

Barr **engaged in a conflict of interest** in representing Trump to defend, explain, deflect and attempt to describe the President's alleged misconduct in a favorable light, while also acting as Attorney General of the US to neutrally and accurately report the investigation of possible misconduct of President Trump.

Please confirm receipt of this complaint, and tell me if any different or additional action needs to be taken by me now to move forward with the concerns expressed in my allegations/complaints against William P Bar.

(b) (6)

(b) (6)

May 2, 2019

Attorney General William Barr
Justice Department
Washington, D. C.

Dear Mr. Barr,

You sir, are a liar, a cheat, and a traitor to the United States of America. You ought to be ashamed of your performance yesterday engaging in obfuscation, disinformation, and earlier outright lies.

This administration that you so vigorously defend is the most corrupt in American history and you and most of this country knows it.

I cannot fathom what has happened to the party of law and order, fiscal conservatism, and anti-Communism and how they can get up in the morning and look into a mirror and feel good about themselves. To continue to justify the unjustifiable is a moral outrage that hopefully the American people will rise up and topple you all from the power that you have so blatantly abused.

Shame is not a strong enough word for the shameless, bigoted, fiscally irresponsible, and morally bankrupt actions of both you and the rest of the new alligators inhabiting the swamp but shame on you.

Oh, I know, you will never read my letter, you don't even read the full report of your agents like Robert Mueller, and the rest of the lemmings in Congress just follow you over the cliff to their ultimate political doom.

May God bless America and send you all to hell.

(b) (6)

Only Nazis investigate the investigators. Corrupt Barr must resign now.

Barr blatantly lied about how Mueller interpreted and used the OLC opinion regarding indictment of a president.

Barr's pre-release press conference was part of a Goebbels propaganda scheme to help Dictator Trump cover up his lies, treason and crimes. Barr is obstructing justice.

Barr broke the law and refused a judge's order to release the Flynn transcripts because those transcripts show Trump's treason. Barr is obstructing justice.

An AG should not be echoing bizarre extremist conspiracy theories. He should gather facts and show them. That is what Justice is about. Barr is sick and unfit for office.

Bill Barr is
lying and
obstructing justice
to cover up
Trump's crimes
and

Free a San

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JUN 18 2019

US Dept of Justice
Office of Professional
Responsibility
950 Pennsylvania Ave NW
Suite 3266
Washington, DC 20530

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Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching require AG Barr to permanently recuse himself specifically from the investigation of Caterpillar Inc. with screening measures implemented to ensure the recusal is effective. This is even consistent with AG Barr's written testimony to the Senate.⁵ This has not been done.

I believe it is reasonable to expect that when the facts, rules, and remedy were brought to the attention of the OPR, it would address the facts and the legal authorities supporting these allegations. The OPR has simply not addressed my allegations nor the supporting authority. In both responses, the OPR has not even mentioned the words "Rules of Professional Responsibility" or "side-switching". I was told in the OPR response dated March 8, 2019⁶ that conflicts-of-interest are limited only to those relationships that constitute a "friendship" or "familial relationship", and not the attorney-client relationship.⁷ Plausible? Then I was told in the OPR Response email dated May 6, 2019,⁸ that OPR concluded that AG Barr did not have to recuse himself for side-switching, because the JMD found that AG Barr had no financial conflicts-of-interest.⁹ Plausible? And also, that AG Barr decided to "indirectly" recuse himself¹⁰ even though the OPR concluded he didn't need to. Plausible? All of this is simply not credible.

- The OPR has not challenged that Mr. Barr's employment as AG constitutes side-switching in relation to the DOJ investigation of Caterpillar Inc. whom he was previously defending in the same investigation.
- The OPR has not challenged that AG Barr is subject to and required to follow Rules of Professional Responsibility, Federal Case Law & DOJ Regulations relevant to side-switching.
- The OPR has not challenged that the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations require a permanent recusal, specifically from the Caterpillar Inc. investigation with screening measures to ensure the recusal is effective.
- The OPR has refused to mention, address or discuss side-switching and the relevant Rules of Professional Responsibility, Federal Case Law & DOJ Regulations.

AG Barr is NOT compliant with required ethical standards, and the OPR is NOT addressing the issue. As stated in my previous letter, given what has transpired I am calling on the Office of Inspector General (OIG) to investigate how and why DOJ programs, policies and procedures allowed the current situation to come about and, based on the responses I received, why this

⁵ <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55). See attached letter dated June 14, 2019, page 5 for discussion.

⁶ See email dated March 8, 2019 (copy attached).

⁷ This reasoning would mean that no other types of relationships can create a conflict-of-interest. This reasoning is contrary to the Rules of Professional Conduct; federal case law, statutes and regulations; and the DOJ's internal information published as guidance for its attorneys regarding conflicts. Plausible?

⁸ See email dated May 6, 2019 (copy attached).

⁹ How can the lack of financial conflicts-of-interest justify a defense attorney becoming the prosecutor in the same matter (i.e. side-switching)? Plausible?

¹⁰ The Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching require AG Barr to permanently recuse himself specifically from the investigation of Caterpillar Inc. with screening measures implemented to ensure the recusal is effective. An indirect recusal based on who is representing a client is not a recusal from the specific matter as required for side-switching. See letter dated June 14, 2019 (copy attached), for discussion.

This case is larger than any reported criminal tax fraud case in U.S. history.¹⁶ So, one can understand the motivation and determination of those being investigated. I believe that the Department of Justice is an institution that takes money and power out of the equation of justice. BUT, is that the case in this investigation?

This is simply a question of whether the investigators and prosecutors being allowed to pursue the evidence and the law, wherever it takes them, without influence or interference? AG Barr's refusal to permanently recuse himself specifically from the investigation of Caterpillar Inc. with screening measures to ensure his recusal is effective is a direct interference with the investigation and puts it at risk for claims of "taint" etc. His actual or possible participation or influence is prohibited by the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching.

What has transpired to date indicates there has been interference in the past; and raises serious concerns about the present and future. If you have any question please contact me.

Sincerely,

(b) (6)

¹⁶ The IRS has already issued Revenue Agent Reports for only 6 of the 18 years involved assessing \$2 billion of additional tax only, exclusive of interest and penalties. This is stated in many press reports and the company's Form 10-K.

absence of AG Barr's *permanent* recusal *specifically* from the *Caterpillar Inc. investigation*, with *screening measures* to ensure the recusal is effective.

This is not a heavy lift. This issue arises regularly within the DOJ as new attorneys join and leave government service, to and from private practice. If a local attorney was defending someone who is being investigated by the DOJ, and then goes to work for the DOJ, I have every confidence that the local U.S. Attorney would require the incoming attorney to recuse him or herself from the investigation of their former client with screening measures to ensure there is no participation by the incoming attorney in that investigation. This protects the DOJ, the investigation, the incoming attorney, and the party being investigated. The local U.S. Attorney would do this to comply with the specific Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching. The only difference in this case is the incoming attorney is the Attorney General of the United States. However, the Attorney General is subject to the same exact ethical standards, and should be held to an even higher standard given his position to avoid any appearance of impropriety.

Why doesn't the AG have to comply with Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching? Why won't the OPR respond to my specific allegation? Compliance with the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations is NOT optional. This authority requires a *permanent* recusal *specifically* from the *Caterpillar Inc. investigation* with *screening measures* that ensure the recusal is effective. This should have been done upon AG Barr's swearing in. Is this not standard procedure throughout the Justice Department?

Allegation

The Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching require AG Barr to *permanently* recuse himself *specifically* from *the investigation of Caterpillar Inc.* with screening measures implemented to ensure the recusal is effective.

AG Barr is NOT compliant with required ethical standards.

This allegation is specific to *side-switching* which is a *patent conflict of interest* that *CANNOT* be waived.³ I submitted a 13-page analysis of side-switching and the relevant ethical standards in my letter dated April 10, 2019.⁴ The OPR Response has been to simply ignore this allegation. I address the OPR Response dated May 6, 2019, below.

The OPR relies on AG Barr's Ethics Agreement/financial disclosure report to conclude that AG Barr does not have to recuse himself from the investigation of Caterpillar Inc.

However, that document has NOTHING to do with the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching.

How can an opinion from the Justice and Management Division (JMD) that AG Barr has no financial conflicts-of-interest justify side-switching that is strictly prohibited? The OPR Response email dated May 6, 2019,⁵ has three paragraphs. The first paragraph restates a portion of AG Barr's Ethics Agreement. The second paragraph paraphrases the first paragraph, and then states:

³ See letter dated April 10, 2019 (copy attached).

⁴ These ethical standards and authorities were analyzed in great detail in my letter dated April 10, 2019 (copy attached).

⁵ See email dated May 6, 2019 (copy attached).

"The Justice and Management Division (JMD) conducted a thorough review of Mr. Barr's financial disclosure report and concluded that 'the report presents no conflict of interest under applicable law and regulations.' Based on the foregoing [a finding of no financial conflicts-of-interest], OPR concluded that contrary to your allegations [regarding conflicts-of-interest due to side-switching], Attorney General Barr was not 'in violation of Department of Justice (DOJ) rules and regulations for not recusing himself from the investigation of Caterpillar Inc.'" [comments added]

"Mr. Barr's financial disclosure report" was submitted by the JMD to the Director of the Office of Government Ethics in a letter dated January 11, 2019,⁶ (a.k.a. AG Barr's Ethics Agreement). This Ethics Agreement is required to comply with Title I of the Ethics in Government Act of 1978. Title I requires certain financial disclosures to ensure certain government employees do not have financial conflicts-of-interest. Title I is limited to financial conflicts-of-interest. Title I has NOTHING to do with the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching. It is a financial disclosure law.

This Ethics Agreement does not mention, raise, address or opine on the conflict-of-interest created by AG Barr's side-switching. It does not mention, raise, address or opine on the relevant Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching that require a permanent recusal specific to the investigation of Caterpillar Inc. with screening measures that ensure an effective recusal.

Thus, how can the OPR rely on "Mr. Barr's financial disclosure report"/Ethics Agreement to conclude that AG Barr's side-switching does not violate the relevant Rules of Professional Responsibility, Federal Case Law & DOJ Regulations when that document does not address this?⁷

A permanent recusal specifically from the investigation of Caterpillar Inc. with screening measures that ensure an effective recusal is required by the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations relevant to side-switching. An indirect recusal from matters in which "Caterpillar is represented by Kirkland & Ellis" is NOT compliant.

To recuse oneself means "to disqualify (oneself)...in a particular case broadly: to remove (oneself) from participation to avoid a conflict of interest."⁸ Disqualify means one is "ineligible...because of violations of the rules".⁹ So recusal means one removes themselves broadly from participation in a particular case because they are ineligible due to some violation of rules. A recusal is not a partial removal that allows for some participation in the particular case. A recusal is not an indirect removal that may allow for any possible subsequent participation in the particular case. A recusal due to side-switching must be a complete, total disqualification.¹⁰

Side-switching is a patent conflict-of-interest violating federal, state and District of Colombia ethical standards

⁶ Ethics Agreement letter from JMD to the U.S. Office of Government Ethics, dated January 11, 2019. This report is primarily, if not totally, focused on potential financial conflicts of interest. It does not raise, mention or opine on side-switching or the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations.

⁷ Furthermore, the OPR Response mentions the short recusal period that is in the Ethics Agreement/financial disclosure report as if it is relevant. It is not. And it provides for AG Barr's participation in recused matters if he first gets approval. Side-switching requires a complete, absolute recusal and disqualification from any participation in the matter - period. See letter dated April 10, 2019 (copy attached).

⁸ <https://www.merriam-webster.com/dictionary/recuse>

⁹ <https://www.merriam-webster.com/dictionary/disqualify>

¹⁰ See letter dated April 10, 2019 (copy attached).

that is NOT waivable.¹¹ However, public policy is served by private attorney's entering government service. This is why the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations strictly prohibit side-switching, but not the movement of attorneys into government service, if there is a permanent recusal specific to the matter in question with screening measures to ensure the recusal is effective. These requirements, when effectively implemented, negate the potential for harm caused by side-switching. AG Barr is not prohibited from being Attorney General. However, AG Barr is required by the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations to permanently recuse himself specifically from the investigation of Caterpillar Inc. and the implementation of screening measures that ensure his recusal is effective.

The third paragraph of the OPR Response email dated May 6, 2019,¹² states:

"Nothing...persuades us to alter our conclusion that Attorney General Barr has acted, and continues to act, in strict compliance with applicable rules and regulations governing his participation in any matter in which Caterpillar is represented by Kirkland & Ellis. Moreover, ...we were advised that he has formally recused himself from any matter in which Kirkland & Ellis represents a party, which includes the criminal tax investigation in which the firm represents Caterpillar." (emphasis added)

The responses states that AG Barr has recused himself from any matter in which "Kirkland & Ellis represents a party", as if this meets the required ethical standard.¹³ It does NOT meet the required ethical standard. The Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching require that AG Barr permanently recuse himself specifically from the investigation of Caterpillar Inc., and put in place screening measures that ensure the recusal is effective. AG Barr is obligated to permanently recuse himself specifically from the investigation of Caterpillar Inc. and have the DOJ implement screening measures that ensure his recusal is effective. Recall, side-switching is a non-waivable conflict-of-interest.¹⁴ This obligation cannot be fulfilled indirectly in a manner that enables Caterpillar to simply hire new counsel and the recusal becomes meaningless. Caterpillar has had several notable law firms previously defending it in this matter, but personally sought out Mr. Barr to defend it¹⁵ after multiple federal agencies publicly executed search warrants at company headquarters and data centers.¹⁶ Caterpillar did not seek out Kirkland & Ellis,¹⁷ it sought out Mr. Barr. AG Barr engaged in the most direct form of side-switching and, therefore, is obligated to permanently recuse himself specifically from the investigation of Caterpillar Inc. and have the DOJ implement screening measures that ensure his recusal is effective.

In addition, Kirkland & Ellis has a significant conflict-of-interest in the Caterpillar investigation which makes it

¹¹ See letter dated April 10, 2019 (copy attached).

¹² See letter dated May 6, 2019 (copy attached).

¹³ Oddly this raises the question as to why AG Barr recently recused himself for something when the OPR has concluded he was not in violation of any rules and, thus, had no reason to recuse. Presumably the OPR had informed AG Barr that he was not in violation of any rules. So why would recusal even enter his mind, particularly when he is dealing with all the matters related to the President including Congressional subpoenas for his testimony and threats of contempt. Under these circumstances how could this issue have gotten to his desk.

¹⁴ See letter dated April 10, 2019 (copy attached).

¹⁵ See <https://www.caterpillar.com/en/news/corporate-press-releases/h/new-caterpillar-ceo-asks-former-us-attorney-general-to-assess-and-help-address-ongoing-government-investigation.html> . Only later did Mr. Barr associate himself with Kirkland & Ellis.

¹⁶ See <https://www.forbes.com/sites/antoinagara/2017/03/02/caterpillars-headquarters-raided-by-federal-authorities-including-doj-and-irs/#33a4e3976f3a> and <https://www.nytimes.com/2017/03/02/business/caterpillar-raid-tax-practices.html> and <https://www.chicagotribune.com/business/ct-law-enforcement-search-caterpillar-0303-biz-20170302-story.html> .

¹⁷ See <https://www.forbes.com/sites/antoinagara/2017/03/02/caterpillars-headquarters-raided-by-federal-authorities-including-doj-and-irs/#33a4e3976f3a> and <https://www.nytimes.com/2017/03/02/business/caterpillar-raid-tax-practices.html> and <https://www.chicagotribune.com/business/ct-law-enforcement-search-caterpillar-0303-biz-20170302-story.html> .

likely it will not be able to continue representing Caterpillar. Kirkland & Ellis previously represented PriceWaterhouseCoopers (PwC) in a Sarbanes-Oxley lawsuit against Caterpillar Inc. pertaining to the particular tax matter being criminally investigated by the DOJ.¹⁸ Kirkland & Ellis has represented PwC in many matters and does so on a continual basis.¹⁹ PwC is Caterpillar's public auditor and the primary architect, implementer and overseer of the tax matter that is the subject of the investigation.²⁰ The interests of PwC and Caterpillar Inc. are directly adverse to one another in this matter. This conflict of interest was and is public knowledge.²¹

**AG Barr's written testimony to the Senate is consistent with my allegation.
My allegation only demands that he comply with his written commitment to the Senate.**

On January 15 & 16, 2019, Mr. Barr testified before the Senate Judiciary Committee. Mr. Barr was sent written questions by members of the Senate following his testimony which he answered.²²

(Q) "Will you commit to recusing yourself from any matters relating to Caterpillar?"

(A) "It is likely that my representation of Caterpillar will present conflicts, and it is my understanding that certain types of conflicts cannot be waived. If confirmed, I commit to following all applicable laws, regulations, and rules with respect to my prior representation of Caterpillar and, if necessary, recusing from any matters relating to the company." (emphasis added)

(Q) "While representing Caterpillar, did you take any formal or informal actions to challenge the basis for the search warrants executed by the government or to challenge the documents collected during the search?"

(A) "Other than information that is publicly available, I am unable to provide further details regarding the nature and specifics of my work for Caterpillar due to the applicable privileges and confidentiality obligations."²³

Side-switching is perhaps the most egregious conflict-of-interest there is.²⁴ "I will no longer defend you and instead will join the prosecution of your case," is simply untenable. The entire basis for our adversary legal system crumbles if side-switching were to be allowed without proper recusals, which is why the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations strictly forbid it.²⁵ When answering these questions from the Senate, it is apparent Mr. Barr knew what side-switching is and knew it is NOT waivable. He specifically told the Senate he would follow all laws, regulations and rules, and if they require, he would recuse himself from "any

¹⁸ Schlicksup vs. Caterpillar, Inc., PACER case No. 09-cv-1208. U.S. District Court, C.D. Illinois, Peoria Division, document #92, appearance of counsel filed Monday, 16 May, 2011. Mark Nomellini of Kirkland & Ellis appearing on behalf of PricewaterhouseCoopers LLP.

¹⁹ See <https://www.kirkland.com/lawyers/b/becker-whitney-l> and <https://www.law.com/therecorder/almID/1202758297218/Kirkland-and-Ellis-to-Defend-PricewaterhouseCoopers-in-Discrimination-Suit/?slreturn=20190109163554> and <https://www.leagle.com/decision/infco20170505a48>.

²⁰ See <https://www.pistar.com/news/20170320/firm-retained-by-caterpillar-after-raids-has-links-to-tax-strategy>

²¹ See <https://www.pistar.com/news/20170320/firm-retained-by-caterpillar-after-raids-has-links-to-tax-strategy>

²² <https://www.judiciary.senate.gov/imo/media/doc/Barr%20Responses%20to%20Whitehouse%20QFRs.pdf> (see Questions #55)

²³ How can the interactions an attorney has with law enforcement be privileged or confidential with regard to his client as the interaction is with a third-party?

²⁴ See letter dated April 10, 2019 (copy attached).

²⁵ See letter dated April 10, 2019 (copy attached).

matters relating to the company” (Caterpillar Inc.) He did not commit to recusing himself from matters in which Kirkland & Ellis is representing a party. He committed to recusing himself from any matters relating to Caterpillar Inc., which is even broader than recusing himself from the specific investigation of Caterpillar Inc.

The Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching require that AG Barr permanently recuse himself specifically from the investigation of Caterpillar Inc., and put in place screening measures that ensure the recusal is effective. He must do so now.

Conclusion

- The OPR has not challenged that Mr. Barr’s employment as AG constitutes side-switching in relation to the DOJ investigation of Caterpillar Inc. who he was previously defending in the same investigation.
- The OPR has not challenged that AG Barr is subject to and required to follow Rules of Professional Responsibility, Federal Case Law & DOJ Regulations relevant to side-switching.
- The OPR has not challenged that the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations require a permanent recusal, specifically from the Caterpillar Inc. investigation with screening measures to ensure the recusal is effective.
- The OPR has refused to mention, address or discuss side-switching and the relevant Rules of Professional Responsibility, Federal Case Law & DOJ Regulations.

In fact, in both responses the Office of *Professional Responsibility* has not mentioned the words “Rules of Professional Responsibility” or “side-switching”, which are the very basis of my allegations. I believe reasonable persons will conclude from the OPR responses that it has not considered the “Rules of Professional Responsibility” or “side-switching” and, therefore, the OPR has not addressed my allegation. I do not believe it is optional for the OPR to address my allegation.

First, I was told in the OPR response dated March 8, 2019²⁶ that conflicts-of-interest are limited only to those relationships that constitute a “friendship” or “familial relationship”.²⁷ Then I was told in the OPR Response email dated May 6, 2019,²⁸ that OPR concluded that AG Barr did not have to recuse himself for side-switching, the most egregious conflict-of-interest, because the JMD found that AG Barr had no financial conflicts-of-interest.²⁹ And also, that AG Barr decided to recuse himself³⁰ even though the OPR concluded he didn’t need to.

I am a bit dismayed at the apparent resistance to apply common, routine, yet very significant, ethical standards to the Attorney General, and the accompanying obfuscation and dismissiveness. This is particularly true given the importance of the issue to the DOJ in avoiding the appearance of impropriety, the nature of this particular investigation, the obvious conflict-of-interest, and the simple remedy. What I am asking for is the minimum response to contain the damage caused by side-switching, which will avoid a serious ethical violation, not do harm to or burden anyone, and preserve the notion in the minds of the public that the DOJ avoids even the appearance of impropriety. The Courts do not tolerate delays in implementing screening measures. Doing so will

²⁶ See email dated March 8, 201. (copy attached).

²⁷ This reasoning would mean that no other types of relationships can create a conflict-of-interest. This reasoning is contrary to the Rules of Professional Conduct; federal case law, statutes and regulations; and the DOJ’s internal information published as guidance for its attorneys regarding conflicts. Plausible?

²⁸ See email dated May 6, 2019 (copy attached).

²⁹ How can the lack of financial conflicts-of-interest justify a defense attorney becoming the prosecutor in the same matter (i.e. side-switching)? Plausible?

³⁰ The recusal is inadequate as discussed above.

avoid less simple measures.

If the OPR believes that my allegations are unfounded based upon the application of the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching by the U.S. Attorney General; then please explain why my allegations are unfounded based upon the Rules of Professional Responsibility, Federal Case Law & DOJ Regulations regarding side-switching. I believe this to be a fair request. Everyone wins and no one loses by doing what is required in a case of side-switching.

(b) (6)



**citizens for responsibility
and ethics in washington**

September 17, 2019

Assistant Attorney General Lee J. Lofthus
Justice Management Division and
Designated Agency Ethics Official
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 4706
Washington, D.C. 20530-0001

Re: Recusal of Attorney General William P. Barr from Investigations into the Origins of the Russian Counterintelligence Investigation

Dear Mr. Lofthus:

To ensure the integrity of the Department of Justice and its continuing commitment to the rule of law, Attorney General William P. Barr should be advised to recuse from all Department of Justice (“DOJ”) investigations into the origins of the Federal Bureau of Investigation (“FBI”) counterintelligence investigation regarding the Russian government’s interference in the 2016 election. Those matters include any investigation into whether President Donald J. Trump as well as the President’s current and former associates, businesses, and campaign may have been the subject of Foreign Intelligence Surveillance Act (“FISA”) supervision for their connection to Russian operatives.

Citizens for Responsibility and Ethics in Washington (“CREW”) previously raised questions about the propriety of Attorney General Barr’s participation in Special Counsel Robert S. Mueller’s investigation into Russia’s interference in the 2016 election and possible obstruction of justice by President Trump (the “Special Counsel Investigation”) because he appeared to have prejudged it based on his prior involvement in the matter while in private practice, and because his decision to issue a four-page letter to Congress about Special Counsel Mueller’s report prior to its public release appeared to be an attempt to skew public opinion in favor of President Trump.¹ CREW also requested that you withdraw any ethics advice or authorization that Attorney General Barr may have been relying on to support his participation in the Special Counsel Investigation and related investigations.²

Attorney General Barr’s conduct since Special Counsel Mueller released his report³ continues to raise significant concerns that he is acting without the requisite impartiality necessary to oversee these matters, and has, once again, prejudged the outcome of any DOJ

¹ Letter from Noah Bookbinder to Attorney General William P. Barr, Apr. 11, 2019, *available at* <https://bit.ly/2IN1ZXe>.

² Letter from Noah Bookbinder to Assistant Attorney General Lee Lofthus, May 20, 2019, *available at* <https://bit.ly/2Mis3LH>.

³ Special Counsel Robert S. Mueller, Report On The Investigation Into Russian Interference In The 2016 Presidential Election (“Special Counsel Report” or “Mueller Report”), Mar. 2019, *available at* <https://www.justice.gov/storage/report.pdf>.

investigation into the origins of these counterintelligence and criminal investigations.⁴ Because of the appearance of impropriety caused by Attorney General Barr's statements regarding these investigations, and his continued involvement in these matters, you should advise him to recuse from all of them. Under these circumstances, the applicable standards of conduct, at 5 C.F.R. § 2635.502 and Justice Manual § 1-4.020, clearly require his recusal.

Factual Background

On April 15, 2019, days prior to the release of the Special Counsel's redacted report, President Donald J. Trump tweeted, "INVESTIGATE THE INVESTIGATORS."⁵ Following the tweet, and the release of the redacted Mueller Report, Attorney General Barr appointed John H. Durham, the United States attorney in Connecticut, to begin a counter investigation into the origins of the Russia investigation ("Counter Investigation").⁶ Attorney General Barr launched the investigation to review "why the FBI opened a counterintelligence investigation into the Trump campaign" and to determine whether "law enforcement officials abused their power."⁷ The investigation is also expected to take a "critical look" at the Central Intelligence Agency's and other intelligence agencies' work on Russia's election interference.⁸

Attorney General Barr Initiated the Counter Investigation Despite Similar Ongoing DOJ Investigations

Attorney General Barr initiated the Counter Investigation despite two ongoing investigations into substantially the same matter – one overseen by the Department of Justice Inspector General Michael E. Horowitz, and one by John W. Huber, the United States Attorney in Utah. The Counter Investigation therefore is unnecessary and duplicative.

On March 28, 2018, Inspector General Horowitz announced his investigation ("OIG Investigation") to examine whether DOJ and the FBI complied with applicable legal requirements, policies and procedures with respect to the FISA application for a "certain U.S. person"⁹ reported to be Carter Page.¹⁰ As part of his investigation, Inspector General Horowitz said he would review the FBI's and DOJ's relationship with a "confidential source,"¹¹ reported

⁴ Jan Crawford, William Barr interview: Read the full transcript, *CBS This Morning*, May 31, 2019 ("CBS News Interview"), available at <https://cbsn.ws/2XlyPIK>.

⁵ Donald J. Trump (@realDonaldTrump), Twitter, Apr. 15, 28, 2019, 4:15 AM, available at <https://twitter.com/realDonaldTrump/status/1117748268820201472>.

⁶ Adam Goldman, Charlie Savage, and Michael S. Schmidt, *Barr Assigns U.S. Attorney in Connecticut to Review Origins of Russia Inquiry*, *New York Times*, May 13, 2019, available at <https://nyti.ms/2LIIMtf>; Matt Zapotosky and Felicia Sonmez, *Barr taps U.S. attorney in Connecticut to investigate origins of Russia probe*, *Washington Post*, May 13, 2019, available at <https://wapo.st/2xGIPfj>.

⁷ Julian E. Barnes, Katie Benner, Adam Goldman, and Michael S. Schmidt, *Justice Dept. Seeks to Question C.I.A. in Its Own Russia Investigation*, *New York Times*, June 12, 2019, available at <https://nyti.ms/2IbDWzK>.

⁸ *Id.*

⁹ Office of the Inspector General U.S. Department of Justice, *DOJ OIG Announces Initiation of Review*, Mar. 28, 2018 ("DOJ OIG Announcement"), available at <https://oig.justice.gov/press/2018/2018-03-28b.pdf>.

¹⁰ Matt Zapotosky, *Justice Dept. inspector general to review surveillance of former Trump campaign adviser*, *Washington Post*, Mar. 28, 2018, available at <https://wapo.st/2JzV1D0>.

¹¹ DOJ OIG Announcement.

to be Christopher Steele, the author of the “infamous dossier” that contained damaging allegations about President Trump.¹² The OIG Investigation was initiated at the request of then-Attorney General Jeff Sessions and members of Congress,¹³ and subsequently was expanded by DOJ to include “any impropriety or political motivation in how the FBI conducted its counterintelligence investigation of persons suspected of involvement with the Russian agents who interfered in the 2016 presidential election.”¹⁴

President Trump was publicly derisive of the OIG Investigation even before it was officially announced.¹⁵ In a February 2018 tweet, President Trump made clear that he had been seeking the appointment of a DOJ prosecutor to conduct a criminal investigation into “potentially massive FISA abuse.”¹⁶ Amongst his complaints about the prospect of a DOJ Inspector General investigation was that it “will take forever” and he “has no prosecutorial power.”¹⁷

On September 13, 2019, Inspector General Horowitz notified Congress that he had begun the process of finalizing the report of his investigation.¹⁸ A draft of the factual findings has been provided to DOJ and the FBI for classification determination, and after that process is completed, Inspector General Horowitz will prepare final public and classified versions of the report, including reviews for “accuracy and comment purposes.”¹⁹ According to *Fox News*, “Barr has received the draft report from Horowitz and will begin the process of reviewing it.”²⁰

Not long after President Trump accused DOJ of unprecedented “spy[ing]” on his campaign,²¹ demanding it too be investigated,²² then-Attorney General Sessions designated U.S.

¹² Zapotosky, *Washington Post*, Mar. 28, 2018.

¹³ DOJ OIG Announcement.

¹⁴ Adam Edelman, DOJ seeks probe of FBI conduct in 2016 campaign after Trump ‘spy’ claim, *NBC News*, May 21, 2018, available at <https://nbcnews.to/2rXT0g0>.

¹⁵ Donald J. Trump (@realDonaldTrump), Twitter, Feb. 28, 2018, 6:34 AM, available at <https://twitter.com/realDonaldTrump/status/968856971075051521?lang=en> (“Why is A.G. Jeff Sessions asking the Inspector General to investigate potentially massive FISA abuse. Will take forever, has no prosecutorial power and already late with reports on Comey etc. Isn’t the I.G. an Obama guy? Why not use Justice Department lawyers? DISGRACEFUL!”).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Letter from Inspector General Michael E. Horowitz to Sen. Ron Johnson, Sen. Gary C. Peters, Sen. Lindsey Graham, Sen. Dianne Feinstein, Rep. Elijah E. Cummings, Rep. Jim Jordan, Rep. Jerrold Nadler, and Rep. Doug Collins, Sept. 13, 2019, available at <https://bit.ly/2kBcMJT>.

¹⁹ *Id.*

²⁰ Alex Pappas, Catherine Herridge, and Jake Gibson, DOJ watchdog submits draft report on alleged FISA abuses to Barr, *Fox News*, Sept. 13, 2019, available at <https://fxn.ws/2kKMnsX>.

²¹ Donald J. Trump (@realDonaldTrump), Twitter, May 18, 2018, 3:24 AM, available at <https://twitter.com/realDonaldTrump/status/997422764909912065> (“Apparently the DOJ put a Spy in the Trump Campaign. This has never been done before and by any means necessary, they are out to frame Donald Trump for crimes he didn’t commit.” Dave Asman @LouDobbs @GreggJarrett Really bad stuff!”).

²² Donald J. Trump (@realDonaldTrump), Twitter, May 20, 2018, 10:37 AM, available at <https://twitter.com/realDonaldTrump/status/998256454590193665> (“I hereby demand, and will do so officially tomorrow, that the Department of Justice look into whether or not the FBI/DOJ infiltrated or surveilled the Trump

Attorney Huber to investigate allegations of FBI abuse of power in cooperation with Inspector General Horowitz.²³ That investigation, which is currently “on standby,” examined many of the same issues that the OIG Investigation probed and that are within the scope of the Counter Investigation.²⁴

Notwithstanding these two Sessions-initiated investigations, President Trump continued to call for additional investigations. For example, President Trump tweeted in August 2018:

Jeff, . . . look into all of the corruption on the “other side” including deleted Emails, Comey lies & leaks, Mueller conflicts, McCabe Strzok, Page, Ohr . . . FISA abuse, Christopher Steele & his phony and corrupt Dossier, the Clinton Foundation, illegal surveillance of Trump Campaign, Russian collusion by Dems - and so much more. Open up the papers & documents without redaction? Come on Jeff, you can do it, the country is waiting!²⁵

In May 2019, shortly after his confirmation and despite the related ongoing OIG and Huber Investigations, Attorney General Barr appointed U.S. Attorney Durham to lead a third DOJ investigation “to examine the origins of the Russia investigation”²⁶ and look into whether the U.S. government’s “‘intelligence collection activities’ related to the Trump campaign were ‘lawful and appropriate.’”²⁷

Attorney General Barr’s Prejudicial Comments Undermine the Independence and Integrity of the Counter Investigation and Indicate He Has Prejudged Its Outcome and the OIG Investigation

Attorney General Barr’s comments regarding the Counter Investigation undermine its independence and integrity and indicate that he has prejudged its outcome. They similarly indicate he has prejudged the IG Investigation.

Campaign for Political Purposes - and if any such demands or requests were made by people within the Obama Administration!”)

²³ Letter from Attorney General Sessions to Sen. Charles E. Grassley, Rep. Robert W. Goodlatte, Rep. Trey Gowdy, Mar. 29, 2018, available at <https://bit.ly/2Z5Rjql>. Attorney General Sessions’ request for the Huber Investigation followed an earlier request he made to U.S. Attorney Huber to investigate various allegations related to the FBI’s handling of investigations involving former Secretary of State Hillary Clinton. Letter from Attorney General Sessions to U.S. Attorney John W. Huber, Nov. 22, 2017, available at <https://bit.ly/31J1Klq>.

²⁴ See, e.g., Jen Kirby, *The investigations into the Russia investigations, explained*, Vox, May 29, 2019, available at <https://bit.ly/2NcB74n>. According to Attorney General Barr, the Huber Investigation is “on standby” in the event the DOJ Inspector General made a criminal referral, but that it had not been “active” in recent months. CBS News Interview. Attorney General Barr reported that U.S. Attorney Durham would be “taking over” for U.S. Attorney Huber, while other matters relating to Hillary Clinton that Huber had been working on were “winding down.” *Id.*

²⁵ Donald J. Trump (@realDonaldTrump), Twitter, Aug. 24, 2018, 6:17 AM, available at <https://bit.ly/2PCJvJi>; Donald J. Trump, (@realDonaldTrump), Aug. 24, 2018, 6:28 AM, available at <https://bit.ly/2MKoA8F>.

²⁶ Goldman, Savage, and Schmidt, *New York Times*, May 13, 2019.

²⁷ Zapotosky and Sonmez, *Washington Post*, May 13, 2019.

In Attorney General Barr's interview with *CBS News* on May 31, 2019,²⁸ he made a number of statements about the focus of the Counter Investigation that would lead a reasonable person to believe that he had prejudged its outcome. Many of these points were similar to statements Attorney General Barr made in an earlier interview he gave to *Fox News* on May 28, 2019.²⁹ Together, these interviews and other public statements made by Attorney General Barr suggest he is actively engaged in a deliberate effort to influence the outcome of the Counter Investigation. These statements include:

- Attorney General Barr has already determined that the FBI's counterintelligence investigation was not properly initiated:
 - "People have to understand . . . that these efforts in 2016, these counter-intelligence activities that were directed at the Trump Campaign, were not done in the normal course and not through the normal procedures as far as I can tell."³⁰ Barr made a substantially similar statement in his *Fox News* Interview.³¹
- Attorney General Barr has already determined that the FISA process was used specifically against the Trump campaign, for political motivations, rather than against Russia:
 - "[T]he use of foreign intelligence capabilities and counterintelligence capabilities against an American political campaign to me is unprecedented and it's a serious red line that's been crossed."³²
 - "The fact that today people just seem to brush aside the idea that it is okay to you know, to engage in these activities against a political campaign is stunning to me especially when the media doesn't seem to think that it's worth looking into."³³
- Attorney General Barr attributes blame to a "small group" of "top" officials:
 - "I think the activities were undertaken by a small group at the top which is one of the – probably one of the mistakes that has been made instead of running this as a normal bureau investigation or counterintelligence investigation. It was done by the executives at the senior level. Out of head

²⁸ See *CBS News* Interview.

²⁹ See Bill Hemmer, *William Barr Interview*, *Fox News*, May 18, 2019 (approximately 2:05) ("*Fox News* Interview"), available at <https://bit.ly/30srkdN>; see also Ian Schwartz, *Barr: Democrats "Trying To Undermine My Credibility"*, *RealClearPolitics*, May 18, 2019, available at <https://bit.ly/30srkdN>.

³⁰ *CBS News* Interview.

³¹ *Fox News* Interview ("You know the thing that's interesting about this is that this was handled at a very senior level of these departments; it wasn't handled in the ordinary way that investigations or counterintelligence activities are conducted it was sort of an ad-hoc small group and most of these people are no longer with the FBI or the CIA or the other agencies involved.").

³² *CBS News* Interview.

³³ *Id.*

- quarters.”³⁴ Barr made a substantially similar statement in his *Fox News Interview*³⁵ as well as in congressional testimony.³⁶
- In his *CBS News Interview*, while Attorney General Barr declined to name the officials whose conduct he believes is at issue, he confirmed that he had “concerns” about how “some in the upper echelon,” including former FBI Director Comey and former acting FBI Director Andrew McCabe “conducted the investigation,” then weighed in on the “bias” that appeared to motivate their conduct: “[W]hen you’re dealing with official government contact, intent is frequently a murky issue. I’m not suggesting that people did what they did necessarily because of conscious, nefarious motives. Sometimes people can convince themselves that what they’re doing is in the higher interest, the better good. They don’t realize that what they’re doing is really antithetical to the democratic system that we have. They start viewing themselves as the guardians of the people that are more informed and insensitive than everybody else. They can – in their own mind, they can have those kinds of motives. And sometimes they can look at evidence and facts through a biased prism that they themselves don’t realize. That something objectively as applied as a neutral principle across the board really you know, shouldn’t be the standard used in the case but because they have a particular bias they don’t see that.”³⁷
 - In his *Fox News Interview*, Attorney General Barr appeared to confirm the identities of three persons under investigation by responding, when asked about the conduct of John Brennan, John Clapper and Jim Comey: “I’m not going to speculate about their motives” and whether they “had it in” for President Trump.³⁸
 - Attorney General Barr has prejudged some of the facts in question:
 - “Well it’s hard to read some of the texts with and not feel that there was gross bias at work and they’re appalling.”³⁹
 - “Those [texts] were appalling. And on their face they were very damning and I think if the shoe was on the other foot we could be hearing a lot about it.”⁴⁰
 - In his *Fox News Interview*, Attorney General Barr stated: “It’s a very unusual situation to have opposition research like [the Steele Dossier] especially one that on its face had a number of clear mistakes,” and “to use that to conduct

³⁴ *Id.*

³⁵ *Fox News Interview*. (“You know the thing that’s interesting about this is that this was handled at a very senior level of these departments; it wasn’t handled in the ordinary way that investigations or counterintelligence activities are conducted it was sort of an ad-hoc small group and most of these people are no longer with the FBI or the CIA or the other agencies involved.”).

³⁶ William Barr, Testimony before the Senate Judiciary Committee, May 31, 2019, *available at* <https://cs.pn/2lsAHLs> (“To the extent there was overreach what we have to be concerned about is a few people at the top getting it into their heads they know better than the American people.”).

³⁷ *CBS News Interview*. Attorney General Barr also declined, “as a legal matter,” to characterize their conduct as treasonous, which President Trump alleged in an earlier statement. Philip Bump, Trump, not understanding treason, names people he thinks committed the capital crime, *Washington Post*, May 23, 2019, *available at* <https://wapo.st/2k0DI5p>.

³⁸ *Fox News Interview*.

³⁹ *CBS News Interview*.

⁴⁰ *Id.*

- counterintelligence against” an “American political campaign,” adding that would be a “strange development.”⁴¹
- When asked in the *Fox News* Interview, if anyone in the government or in intelligence took “action to justify their decisions,” Attorney General Barr responded: “I think there were some very strange developments during that period . . . such as the handling of the [Trump Tower] meeting on January 6 between the intelligence Chiefs and the president and the leaking of information subsequent to that meeting.”⁴²
 - In July 2019, Attorney General Barr continued to make disparaging comments about the basis for the counterintelligence investigation into the Trump Campaign by asking about how the “bogus narrative” began that President Trump was “essentially in cahoots with Russia to interfere with the U.S. election?”⁴³

Attorney General Barr’s use of the term “spying” to describe the FBI’s conduct also indicates that he has prejudged any investigation into the origins of the counterintelligence investigation and is attempting to influence its outcome. Shortly before Attorney General Barr opened the Counter Investigation, he testified to Congress that “spying on a political campaign is a big deal” and that he believed “spying did occur.”⁴⁴ As a result, Attorney General Barr said he intended to find out whether the alleged spying was “adequately predicated.”⁴⁵

As shown by President Trump’s own tweets accusing DOJ and FBI of spying on his campaign and characterizing that activity as “really bad stuff,”⁴⁶ “bad!,”⁴⁷ “TREASON!,”⁴⁸ which demands “long jail sentences,”⁴⁹ the use of the term “spying” connotes nefarious and possibly illegal conduct. Underscoring the prejudicial import of the “spying” allegations, FBI Director Christopher Wray also said it would not be “right or appropriate” to share his personal views on whether the FBI “spied” on the 2016 presidential campaign operation while the OIG

⁴¹ *Fox News* Interview.

⁴² *Id.*

⁴³ Katie Benner, Barr Says House Subpoenaed Mueller to Create ‘Public Spectacle’, *New York Times*, July 8, 2019, available at <https://www.nytimes.com/2019/07/08/us/politics/mueller-testify-william-barr.html>.

⁴⁴ Nick Fandos and Adam Goldman, Barr Asserts Intelligence Agencies Spied on the Trump Campaign, *New York Times*, Apr. 10, 2019, available at <https://nyti.ms/2IroH6i>.

⁴⁵ *Id.*

⁴⁶ Donald J. Trump (@realDonaldTrump), Twitter, May 18, 2018, 6:24 AM, available at <https://bit.ly/2ZWNxRB> (“‘Apparently the DOJ put a Spy in the Trump Campaign. This has never been done before and by any means necessary, they are out to frame Donald Trump for crimes he didn’t commit.’ David Asman @LouDobbs @GreggJarrett Really bad stuff!”).

⁴⁷ Donald J. Trump (@realDonaldTrump), Twitter, Jan. 15, 2019, 6:58 AM, available at <https://bit.ly/2yW1IdQ> (“The rank and file of the FBI are great people who are disgusted with what they are learning about Lyin’ James Comey and the so-called “leaders” of the FBI. Twelve have been fired or forced to leave. They got caught spying on my campaign and then called it an investigation. Bad!”).

⁴⁸ Donald J. Trump (@realDonaldTrump), Twitter, May 17, 2019, 7:11 AM, available at <https://bit.ly/2lZTy0y> (“My Campaign for President was conclusively spied on. Nothing like this has ever happened in American Politics. A really bad situation. TREASON means long jail sentences, and this was TREASON!”).

⁴⁹ *Id.*

Investigation is ongoing.⁵⁰ FBI Director Wray further noted that it is important to “respect the independence” of the OIG’s investigative process so as to ensure “full confidence in his review.”⁵¹

For many of the same reasons, Attorney General Barr’s comments and his use of the term “spying” indicates that he has prejudged the OIG Investigation. He has already determined that the FISA process was used specifically against the Trump campaign for political reasons and that the FBI’s counterintelligence investigation was not properly initiated, and he further believes “spying” has occurred. All of these are likely subjects of the OIG Investigation.

The Findings and Results of the Special Counsel Investigation Show that the FBI Counterintelligence Investigation was Fully Justified

Attorney General Barr initiated the Counter Investigation to examine the origins of the FBI counterintelligence investigation even though the findings and results of Special Counsel Mueller’s investigation show that the FBI counterintelligence investigation was amply justified.

The FBI counterintelligence investigation and Special Counsel Mueller’s investigation are inextricably intertwined. The FBI counterintelligence investigation “ultimately led” to Special Counsel Mueller’s appointment in May 2017, and the order authorizing him to investigate “‘the Russian government’s efforts to interfere in the 2016 presidential election,’ including any links or coordination between the Russian government and individuals associated with the Trump Campaign.”⁵² Like the Special Counsel Investigation, the FBI counterintelligence investigation focused on the Russian government’s efforts to interfere in the 2016 presidential election and included investigations of links between the Russian government and individuals associated with the Trump Campaign.⁵³

As a threshold matter, Special Counsel Mueller found that Russia interfered in the 2016 presidential election in a “sweeping and systematic fashion” by operating a social media campaign that favored presidential candidate Trump and by engaging in computer-hacking operations against the Clinton Campaign that led to the release of numerous stolen documents.⁵⁴

⁵⁰ Adam Edelman, FBI chief Wray refutes Barr, saying no ‘spying’ on Trump campaign, *NBC News*, May 7, 2019, available at <https://nbcnews.to/2H8MOG2>.

⁵¹ *Id.* (in accompanying video). FBI Director Wray also distanced himself from these prejudicial statements by stating “that’s not the term I would use” and denying “any evidence of that sort” when asked about the possibility that illegal surveillance had been used on the Trump Campaign or its associates. Devlin Barrett, *FBI director tells Congress he has no evidence of ‘spying’ on Trump campaign*, *Washington Post*, May 7, 2019, available at <https://wapo.st/32neAXV>.

⁵² Mueller Report, Vol. I, at 1.

⁵³ Mueller Report, Vol. I, at 8. On March 20, 2017, then-Director James Comey confirmed to Congress that the FBI was conducting a counterintelligence investigation into “the Russian government’s efforts to interfere in the 2016 presidential election, and that includes investigating the nature of any links between individuals associated with the Trump campaign and the Russian government and whether there was any coordination between the campaign and Russia’s efforts . As with any counterintelligence investigation, this will also include an assessment of whether any crimes were committed.” *Full Transcript: FBI Director James Comey testifies on Russian interference in 2016 election*, *Washington Post*, Mar. 20, 2017, available at <https://wapo.st/2n6C5BE>.

⁵⁴ Mueller Report, Vol. I, at 1.

Special Counsel Mueller found that those releases were “designed and timed to interfere” with the 2016 presidential election and “to damage a presidential candidate.”⁵⁵

Special Counsel Mueller’s investigation was also overwhelmingly successful as measured by the number of indictments, convictions, and plea agreements obtained against Russian nationals and entities and Trump Campaign officials or associates. As part of his investigation, Special Counsel Mueller brought criminal indictments against thirteen Russian nationals, three Russian entities and twelve Russian military intelligence officers for operations in support of the social media campaign and computer-hacking.⁵⁶

In addition to the Russian indictments, Special Counsel Mueller obtained plea agreements, convictions or indictments against several Trump Campaign officials or associates, including Michael Flynn, Richard Gates, Paul Manafort, and George Papadopoulos.⁵⁷ According to the Mueller Report, Mr. Papadopoulos’ conduct led the FBI to open an investigation into persons associated with the Trump Campaign who were coordinating with the Russian government as part of its interference activities.⁵⁸ Mr. Papadopoulos subsequently pleaded guilty to lying to investigators about “the nature and timing of his interactions with Joseph Mifsud, a professor who told Papadopoulos that the Russians had dirt on candidate Clinton in the form of thousands of emails.”⁵⁹

In addition to Mr. Papadopoulos, the investigation “established” that several other “individuals affiliated with the Trump Campaign lied to the Office, and to Congress, about their interactions with Russian-affiliated individuals and related matters” and “those lies materially impaired the investigation of Russian election interference.”⁶⁰ Mr. Flynn pleaded guilty to lying about his interactions with Russian Ambassador Sergey Kislyak; Mr. Cohen pleaded guilty to making false statements to Congress about a real estate project in Russia known as Trump Tower Moscow; and Mr. Manafort was found by a federal district judge the U.S. District Court for the District of Columbia to have lied to the Special Counsel’s Office and the grand jury “concerning his interactions and communications with Konstantin Kilimnik about Trump Campaign polling data and a peace plan for Ukraine.”⁶¹

Special Counsel Mueller also investigated and identified numerous links between the Trump campaign and individuals with ties to the Russian government.⁶² By one count, the Mueller Report revealed at least 140 contacts by President Trump or 18 of his associates with

⁵⁵ Full Transcript of Mueller’s Statement on Russia Investigation, *New York Times*, May 29, 2019, available at <https://nyti.ms/310zFq8>.

⁵⁶ Mueller Report, Vol. I, at 174-75.

⁵⁷ Mueller Report, Appendix D; Sharon LaFraniere, Paul Manafort, Trump’s Former Campaign Chairman, Guilty of 8 Counts, *New York Times*, Aug. 21, 2018, available at <https://nyti.ms/2N4RU6t>.

⁵⁸ Mueller Report, Vol. I, at 1.

⁵⁹ Mueller Report, Vol. I, at 9.

⁶⁰ Mueller Report, Vol. I, at 9.

⁶¹ Mueller Report, Vol. I, at 9-10.

⁶² Mueller Report, Vol. I, at 66.

Russian nationals and Wikileaks.⁶³ Although it did not establish that the Trump Campaign conspired or coordinated with the Russian government in the election interference activities,⁶⁴ the Special Counsel Investigation identified contacts made at the highest levels of the Trump Campaign. For example, these contacts included the June 9, 2016 Trump Tower meeting between a Russian attorney who previously worked for, and maintained close ties to, the Russian government and President Trump's campaign advisor and son Donald Trump Jr., campaign advisor and son-in-law Jared Kushner, and campaign chairman Paul Manafort.⁶⁵ The senior campaign advisors in attendance at the meeting were "expecting to receive derogatory information about Hillary Clinton from the Russian government."⁶⁶

Another notable example involves Mr. Manafort, who briefed his business colleague Konstantin Kilimnik on the state of the Trump Campaign and shared campaign messaging and internal polling data in an August 2016 meeting in New York City.⁶⁷ Mr. Manafort then instructed his deputy Rick Gates to share the Trump Campaign's sensitive internal polling data and other campaign updates with Kilimnik, with the understanding that Kilimnik, in turn, would share it with a Russian oligarch and Ukrainian oligarchs.⁶⁸ Gates proceeded to share this information over several months via Kilimnik who was believed by the FBI to have ties to Russian intelligence.⁶⁹

In addition, had Special Counsel Mueller not encountered obstacles in conducting the investigation, even more light might have been shed on the relevant events.⁷⁰

All of the above shows the FBI counterintelligence investigation, which was taken over by the appointment of Special Counsel Mueller, was fully justified and warranted.

Allegations that Carter Page Was Subjected to Spying Are Specious

To the extent that Attorney General Barr's allegation that "spying did occur" is based on the process by which the FBI collected information about Carter Page, that claim is specious at best. As a preliminary matter, that process reportedly is one of the matters under review by Inspector General Horowitz,⁷¹ making the Counter Investigation into this issue superfluous. With

⁶³ Karen Yourish and Larry Buchanan, Mueller Report Shows Depth of Connections Between Trump Campaign and Russians, *New York Times*, Apr. 19, 2019, available at <https://nyti.ms/2TfXRAF>.

⁶⁴ Mueller Report, Vol. I, at 1-2.

⁶⁵ Mueller Report, Vol. I, at 110.

⁶⁶ Mueller Report, Vol. I, at 110.

⁶⁷ Mueller Report, Vol. I, at 140.

⁶⁸ Mueller Report, Vol. I, at 129-31, 136.

⁶⁹ Mueller Report, Vol. I, at 6 and 129, 133.

⁷⁰ Mueller Report, Vol. I, at 10. Some individuals associated with the Trump Campaign deleted relevant communications or used encrypted applications to prevent their disclosure; some persons invoked their Fifth Amendment right against self-incrimination; and some witnesses provided "false or incomplete" information that led to false statements charges. *Id.* In addition, President Trump was unwilling to be interviewed by the Special Counsel on Russian-election interference and "generally" lacked truthfulness in his written answers. Mueller Report, Appendix C-1.

⁷¹ Mark Hosenball, Trump 'dossier' author grilled by Justice Department watchdogs: sources, *Reuters*, July 9, 2019, available at <https://reut.rs/2xK3gGV>.

regard to the substance of the allegation, the stringent legal process for obtaining a FISA warrant, the application of that process to the efforts to collect information about Mr. Page, and the factual conclusions about him reached by the Special Counsel Investigation debunk any allegation of improper “spying.”

The Mueller Report serves to highlight several important points about the FISA warrant process and ways in which it is designed to prevent the very type of “spying” Attorney General Barr is alleging occurred. The jurisdiction for granting a FISA warrant lies not with any individual employee of the FBI, DOJ, or other executive branch agency, but with a specially-designated federal judge.⁷² The FISA warrant process requires the government to file a detailed application approved at the highest levels of the government asking the Foreign Intelligence Surveillance Court to authorize electronic surveillance.⁷³ To obtain the warrant, the government must show probable cause to believe both that the proposed target is a foreign power or an agent of a foreign power and that the facility or place is or is about to be used by that target.⁷⁴

This demanding and thorough process was followed in the applications for FISA warrants for Mr. Page. And on four separate occasions, including twice after President Trump took office, four different federal judges found probable cause to believe that Mr. Page was an agent of a foreign power.⁷⁵

Special Counsel Mueller likewise found evidence that “Russian intelligence officials had formed relationships with Page in 2008 and 2013 and Russian officials may have focused on Page in 2016” because he worked for the Trump Campaign as a foreign policy advisor from January 2016 to September 2016.⁷⁶ Special Counsel Mueller also found that Mr. Page lived and worked in Russia between 2003 and 2007 and, after returning to the United States, “Page became acquainted with at least two Russian intelligence officers, one of whom was later charged in 2015 with conspiracy to act as an unregistered agent of Russia.”⁷⁷ With this background and contemporaneous evidence of Russian interference in the 2016 Presidential election,⁷⁸ any

⁷² 50 U.S.C. §§ 1803-04.

⁷³ 50 U.S.C. § 1805(a)(2)(A)

⁷⁴ *Id.* The probable-cause finding necessary to obtain a FISA warrant is a “different (and lower) standard” than evidence needed to prove a crime “beyond a reasonable doubt,” Mueller Report, Vol. I, at 183, n. 1282 (citation omitted) – the standard required by DOJ for its prosecutors to seek an indictment. Comment to Justice Manual § 9-27.300 (“At the outset, the attorney for the government should bear in mind that he/she will have to introduce at trial admissible evidence sufficient to obtain and sustain a conviction, or else the government will suffer a dismissal, or a reversal on appeal. For this reason, he/she should not include in an information, or recommend in an indictment, charges that he/she cannot reasonably expect to prove beyond a reasonable doubt by legally sufficient and admissible evidence at trial.”).

⁷⁵ Mueller Report, Vol. I, at 183; Applications and Court Orders for FISA Warrants Against Carter Page, October 2016, January 2017, April 2017, and June 2017 (“FISA Applications and Court Orders”), available at <https://bit.ly/2C0ANQc>.

⁷⁶ Mueller Report, Vol. I, at 95.

⁷⁷ Mueller Report, Vol. I, at 6.

⁷⁸ See FISA Applications and Court Orders. See also David Kris, [What to Make of the Carter Page FISA Applications](https://bit.ly/2LDriZy), *Lawfare*, July 21, 2018, available at <https://bit.ly/2LDriZy>.

⁷⁸ Natasha Bertrand, [Trump dossier author Steele gets 16-hour DOJ grilling](https://politi.co/30qrvqe), *Politico*, July 9, 2019, available at <https://politi.co/30qrvqe>.

argument that the FISA warrants against Mr. Page were not “adequately predicated” defies common sense and renders Attorney General Barr’s claims of “spying” meritless.

Legal Analysis

The government-wide Standards of Conduct require all executive branch employees to act impartially and to avoid any actions creating the appearance that they are violating the applicable ethical standards.⁷⁹ Furthermore, to ensure public trust in the federal prosecutorial system, DOJ places even greater demands on government employees who are selected to serve as federal prosecutors. That system relies on the “character, integrity, sensitivity, and competence” of those selected to “represent the public interest in the federal criminal justice process”⁸⁰ and requires federal prosecutors to “promote confidence that important prosecutorial decisions will be made rationally and objectively on the merits of each case.”⁸¹ Accordingly, DOJ’s standards of conduct make explicit the requirement that “an employee should contact his or her ethics official for advice or approval when the employee . . . is asked to participate in a matter that might cause a reasonable person to question his or her impartiality.”⁸²

DOJ also maintains a media policy that governs the protection and release of information obtained in the course of its work. The purpose of the policy is to balance due process and privacy interests, the government’s ability to administer justice and promote public safety, and the public’s right to access information about the Department of Justice.⁸³ Under this policy, “DOJ personnel shall not make any statement or disclose any information that reasonably could have a substantial likelihood of materially prejudicing an adjudicative proceeding.”⁸⁴ DOJ personnel also are required to refrain from disclosing observations about a party’s character and any opinion as to the defendant’s guilt.⁸⁵

Notwithstanding these ethical, due process, and privacy obligations, Attorney General Barr has made statements in media interviews and to Congress strongly indicating that he is

⁷⁹ 5 C.F.R. §§ 2635.101(b)(8), (14).

⁸⁰ Justice Manual § 9-27.001.

⁸¹ *Id.*

⁸² Justice Manual § 1-4.020. *See also* 5 C.F.R. §§ 2635.502(a)(2), (d); 5 C.F.R. § 2635.102(b) (“Where the conduct in issue is that of the agency head” any required “determination, approval or action” is to “be made or taken by the agency head in consultation with the designated agency ethics official.”).

⁸³ Justice Manual § 1-7.001.

⁸⁴ Justice Manual § 1-7.600.

⁸⁵ Justice Manual § 1-7.610. *See also* ABA Model Rules of Professional Conduct Rule 3.8(f) (“The prosecutor in a criminal case shall . . . except for statements that are necessary to inform the public of the nature and extent of the prosecutor’s action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.”); ABA Model Rules of Professional Conduct Rule 3.6 (“A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.”).

acting without the requisite impartiality and has prejudged the outcome of any DOJ investigation into the origins of the FBI counterintelligence investigation regarding the Russian government's interference in the 2016 election. Attorney General Barr apparently has already concluded that the counterintelligence investigation was "not done in the normal course and not through the normal procedures," crossed a "serious red line," and was undertaken by a "small group" of "top" officials. Attorney General Barr also seemingly confirmed the identity of at least three of the individuals whose conduct is at issue as a result of their participation in a January 2017 Trump Tower meeting, possibly in violation of their due process and privacy protections under DOJ guidelines. In addition, he has apparently concluded that the FBI's conduct is properly characterized as "spying," despite the prejudicial connotations of that term.

The findings and results of the Special Counsel Investigation, however, show that the FBI counterintelligence investigation was fully justified and efforts to investigate the investigators are unwarranted. Given the extraordinary productivity of the Special Counsel Investigation – which resulted in multiple plea agreements, convictions, or indictments against Russian nationals, entities, and officials, as well as senior officials and associates of the Trump Campaign – Attorney General Barr's decision to open a Counter Investigation lacks a rational basis and appears retaliatory in nature. In addition, in view of the two related ongoing investigations, Attorney General Barr's decision to open a third investigation is unnecessary and duplicative. The OIG Investigation, supported by the Huber Investigation, is already considering the allegations at issue, including those of alleged "spying" against the Trump Campaign. Moreover, as indicated in the Mueller Report, the FISA warrant process in the case of Mr. Page was adequately predicated, resulting in warrants being authorized by four separate federal judges on four separate occasions, including on two occasions after President Trump was inaugurated, based on probable-cause findings that Mr. Page acted as an agent of a foreign government.

By initiating a third investigation under these circumstances, Attorney General Barr appears to have acted at the behest of President Trump, who called for this very action when he tweeted: "INVESTIGATE THE INVESTIGATORS!" Attorney General Barr's conduct throughout the process reveals that he lacks the requisite impartiality necessary to oversee the Counter Investigation. Furthermore, his comments are prejudicial and undermine the independence of the investigative process. On this basis, you should instruct Attorney General Barr to recuse from further participation in the Counter Investigation to protect the integrity of the investigative process, and from participation in any review of or follow up on the OIG Investigation. He should be further instructed to refrain from commentary about the ongoing investigation to avoid further depriving those involved of their due process and privacy protections.

Conclusion

By making prejudicial public comments related to the Counter Investigation, Attorney General Barr has undermined public confidence in the DOJ investigative process. His actions surrounding the Counter Investigation further reveal a disturbing pattern of conduct that strongly suggest his impartiality has been materially impaired in violation of his ethical, due process, and privacy obligations. His comments and actions similarly indicate he has prejudged the OIG

Assistant Attorney General Lee J. Lofthus

September 17, 2019

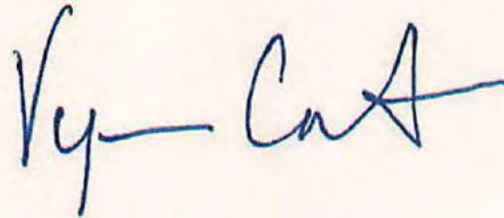
Page 14

Investigation. To avoid further harm to the integrity of the investigative process, CREW respectfully requests that you instruct Attorney General Barr to recuse from the Counter Investigation, the OIG Investigation, and all related investigations, and refrain from further public commentary about them.

Sincerely,

A handwritten signature in blue ink, appearing to read "Noah Bookbinder".

Noah Bookbinder
Executive Director

A handwritten signature in blue ink, appearing to read "Virginia Canter".

Virginia Canter
Chief Ethics Counsel

cc: Corey R. Amundson
Director and Chief Counsel, Office of Professional Responsibility

(b) (6)

(b) (6)

11/10/2019

Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

RE: Attorney General William Barr

Dear Director and Chief Counsel,

I would like to file a formal complaint against Attorney General William Barr for failure to meet the job responsibilities as the Attorney General in the Department of Justice.

Mr. Barr's started his tenure with the mischaracterization of the Mueller Report and continues with his failure to address the White House's actions in defying the many Congressional subpoenas in the Ukrainian investigation. Mr. Barr has failed to protect the independence and reputation of the Department of Justice and instead, has acted like a defense lawyer for this President.

My issues with Mr. Barr include the following; Why hasn't Mr. Barr opened an investigation into whether Trump's request of the Ukrainians may have violated U.S. campaign finance law? Why isn't Mr. Barr protecting the whistleblower and all attempts by the President to reveal this person's names? Where is the investigation of John A. Eisenberg's actions related to the Ukraine call? Why hasn't Mr. Barr been investigated for the ethics violation related to using the Trump International Hotel?

As a taxpayer, I do not want to bankroll Mr. Barr's travel to Europe to find information related to the 2016 election. I want Mr. Barr to do his job for ALL Americans and NOT for just Mr. Trump.

Thank you for your attention in this matter.

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February 18, and 2020

My complaint is against the performance of Attorney General William Barr. Mr. Barr took an oath to protect and defend the constitution. Unfortunately, he is acting to protect and defend Donald trump.

As a citizen of the United States, and as one of the people AG Barr is supposed to be representing, I am filing a complaint against his job performance. He is not upholding the rule of law, is not committed to telling the truth and is failing to uphold the constitution.

He has repeatedly held the president above the law.

Therefore, he must resign.

Today.

(b) (6)

Jeffrey R. Ragsdale
Department of Justice
Acting Director and Chief Counsel
Office of Professional Responsibility
950 Pennsylvania Avenue NW, Suite 3266
Washington, D.C. 20530

Dear Attorney Ragsdale,

I write to you as an American citizen and resident of the State of Washington to demand that you begin an investigation into the misconduct and malfeasance of Attorney Pat Cipollone, who abused his office to act as defense counsel for Donald Trump during the recent impeachment hearings, when he was, in truth, a fact witness in the case of the Ukraine bribery scheme, who should have recused himself from this role, and should have appeared before the Senate as a hostile witness in this matter.

Secondly, I demand that you open an investigation into the misconduct and abuse of power of his office by U.S. Attorney General William P. Barr, who also is a fact witness in the Ukraine case, and should have recused himself from this matter, and who has continuously abused the power of his office to commit malfeasance in defense of Donald Trump; who is investigating Mr. Trump's enemies for Mr. Trump's personal gain; who is doing bogus investigations into debunked conspiracy theories created by Rudy Giuliani and others; and who has maligned and discredited his own Department of Justice's conclusions in the Mueller Report.

I request a response

Thank you,

(b) (6)

(b) (6)

cc: Maria Cantwell, U.S. Senator from the State of Washington

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Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

Via e-mail: opr.complaints@usdoj.gov

April 4, 2019

Re: William Barr regarding the "Mueller Report"

Dear Director and Chief Counsel:

Attorney General William Barr has violated legal ethics standards by displaying bias as well as the appearance of bias with respect to his handling of the so-called "Mueller Report."

In June, 2018, Mr. Barr, then a private citizen who nevertheless identified himself as a "former official", submitted a 19-page unsolicited memo (attached) to the U.S. Department of Justice which (1) questioned the scope of Mueller's investigation, (2) argued that Mueller should not be permitted to demand answers from the president about possible obstruction of justice based on attempts by Trump to pressure former FBI Director James Comey to drop his investigation of the president's ex-National Security Advisor Michael Flynn, and (3) called special counsel Robert S. Mueller III's obstruction theory "fatally misconceived."

Subsequently Barr was nominated by the president, the very subject of the Mueller Report, to replace Attorney General Jeff Sessions, who had properly recused himself.

After being confirmed as US Attorney General and receiving the Mueller Report, Mr. Barr condensed the 400-page Report down to a 4-page summary (attached), making conclusions reportedly and on its face inconsistent with known Mueller Report conclusions.

Following the release of his 4-page summary, Barr has refused to release the full Mueller Report as and when requested by the U.S. House of Representatives, thus interfering with its Constitutional role in evaluating whether the president committed "Treason, Bribery, or other high Crimes and Misdemeanors", a standard distinct from that required for criminal convictions.

The bias displayed by Barr's submission of his unsolicited memo and his likely inaccurate and certainly incomplete summary of the Mueller Report clearly demonstrates Barr violated his legal ethical obligation to recuse himself from the entire Mueller Report process. Instead and to the contrary, Barr has proffered an apparently inaccurate, biased summary of the Report.

Barr must be removed from any and all responsibility and authority with respect to the Mueller Report and its handling must be assigned to a DOJ attorney who (1) is unbiased, (2) appears unbiased and (3) adheres to legal ethics standards required and agreed to by all attorneys admitted to practice in the United States.

I have written to the US DOJ several times, asking for my letter to be forwarded to AG Barr.

I have yet to receive any response from Barr or DOJ. Therefore, as a last resort, I am turning to the U.S. Department of Justice Office of Professional Responsibility.

Thank

(b) (6)

AMERICAN
OVERSIGHT

February 19, 2020

Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

Dear Director and Chief Counsel:

I am writing to file a complaint against US Attorney General William P. Barr for gross misconduct in carrying out (or rather failing to carry out) the duties of the office to which he was appointed. Mr. Barr took an oath that he violates daily in the following ways:

- Aiding and abetting the violation of the Rule of Law
- Aiding and abetting efforts to undermine the independence of the Judiciary
- Aiding and abetting efforts to undermine the provisions of the Constitution of the United States; failing to take action when the president blatantly and publicly violates the Emoluments Clause, prohibited self-enrichment, bribery actions and public decency.

Abundant documentation of these violations appears daily in the media, in Mr. Trump's tweets, and in public statements. I am sure professionals in your office are already well aware of these violations, yet no action has been taken.

While employees stealing office supplies are no doubt—and properly—dealt with harshly, high-level officials, including Mr. Barr, seem to be given a pass to act illegally to the detriment of our country.

Please inform me of the action you are taking in this regard at your earliest convenience.

(b) (6)



**citizens for responsibility
and ethics in washington**

March 11, 2020

Jeffrey Ragsdale
Acting Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: Request for Investigation into Attorney General William Barr's Involvement in a Whistleblower Complaint Alleging President Donald J. Trump Solicited Foreign Interference in the 2020 Presidential Election

Dear Acting Director Ragsdale and Inspector General Horowitz,

Citizens for Responsibility and Ethics in Washington ("CREW") respectfully requests that your offices investigate Attorney General William Barr's involvement in a whistleblower complaint alleging President Donald J. Trump solicited foreign interference in the 2020 presidential election ("Ukraine Pressure Campaign"), and review if Attorney General Barr's failure to recuse resulted in the Department of Justice ("DOJ") mishandling that complaint. An investigation is necessary to determine if Attorney General Barr's failure to recuse not only violated applicable ethics laws and regulations, but also whether his involvement compromised the integrity and independence of DOJ's inquiry into the whistleblower complaint.

This request supplements CREW's October 7, 2019 letter to DOJ Inspector General Michael E. Horowitz in which we raised similar questions about the propriety of Attorney General Barr's participation in matters arising from the whistleblower complaint based on his financial conflict of interest, lack of impartiality, and use of public office for private gain.¹ Since that letter, new evidence has emerged that sheds additional light on Attorney General Barr's knowledge and involvement in the Ukraine Pressure Campaign. Witnesses have come forward with reports that Attorney General Barr was "on the team" of those involved with the Ukraine Pressure Campaign as it was happening,² and that indicate he was personally contacted by former National Security Advisor John Bolton to discuss concerns about President Trump's

¹ Letter from Noah Bookbinder to Inspector General Michael E. Horowitz, Oct. 7, 2019 ("Oct. 7 Letter"), available at <https://go.aws/36lAM5u>.

² Rachel Maddow Interviews Lev Parnas. Transcript: 1/15/20, The Rachel Maddow Show, MSNBC, Jan. 15, 2020 ("Parnas Transcript"), available at <http://www.msnbc.com/transcripts/rachel-maddow-show/2020-01-15>.

personal lawyer, Rudy Giuliani, and the Ukraine Pressure Campaign.³ These developments are further evidence of Attorney General Barr's disqualifying conflict of interest on matters related to the whistleblower complaint.

Information has also emerged that indicates the whistleblower complaint was well founded. In this regard, two senior government officials – an inspector general and the general counsel of a separate agency – deemed the complaint sufficiently credible to merit a DOJ investigation. In addition, the General Accountability Office (“GAO”) issued a decision finding that the Office of Management and Budget (“OMB”) violated federal law by withholding funds appropriated for Ukraine military assistance from obligation.⁴ As well, CREW and others have identified several incidences of criminal activity by President Trump and others involved in the Ukraine Pressure Campaign.⁵ All of this suggests that Attorney General Barr's failure to recuse from the whistleblower complaint may have tainted DOJ's handling of the matter.

Attorney General Barr's oversight of the whistleblower complaint appears to be part of a larger pattern of conduct to place the personal political interests of President Trump above his loyalty to the Constitution, laws, and ethical principles. As CREW highlighted in prior letters to DOJ, Attorney General Barr made public statements indicating he has prejudged the outcome of DOJ investigations into the origins of the Russia investigation.⁶ CREW has also raised questions about Attorney General Barr's impartiality in matters pertaining to Special Counsel Robert S. Mueller's investigation into Russia's interference in the 2016 election and possible obstruction of justice by President Donald J. Trump, in part because of his apparent attempt to skew public opinion in favor of President Trump.⁷ Further indicating a pattern of prejudicial conduct, Attorney General Barr also has “take[n] control of legal matters of personal interest” to President Trump,⁸ which resulted in Attorney General Barr reducing the sentencing recommendation for President Trump's long-time associate, Roger Stone,⁹ and opened a backdoor channel for Mr.

³ Maggie Haberman and Michael S. Schmidt, *Trump Tied Ukraine Aid to Inquiries He Sought, Bolton Book Says*, *New York Times*, Jan. 28, 2020, available at <https://nyti.ms/38W4S1c>.

⁴ GAO Decision, *Office of Management and Budget - Withholding of Ukraine Security Assistance*, B-331564, Jan. 16, 2020 (“GAO Decision”), available at <https://d3i6fh83elv35t.cloudfront.net/static/2020/01/703909.pdf>.

⁵ CREW Report on Criminal Abuse of Power: Trump's Five Crimes Connected to Ukraine, available at <https://go.aws/2TfEIQJ>.

⁶ Letter from Noah Bookbinder to Acting Director and Chief Counsel, Office of Professional Responsibility Jeffery Ragsdale and Inspector General Michael E. Horowitz, Feb. 14, 2020, available at <https://go.aws/37XKbAZ>; Letter from Noah Bookbinder to Assistant Attorney General Lee J. Lofthus, Sept. 17, 2019, available at <https://bit.ly/2lh1KtB>.

⁷ Letter from Noah Bookbinder to Attorney General William P. Barr, Apr. 11, 2019, available at <https://bit.ly/2IN1ZXe>; Letter from Noah Bookbinder to Assistant Attorney General Lee J. Lofthus, May 20, 2019, available at <https://bit.ly/2Mis3LH>.

⁸ Carol E. Lee, Ken Dilanian, and Peter Alexander, *Barr takes control of legal matters of interest to Trump, including Stone sentencing*, *NBC News*, Feb. 11, 2020, available at <https://nbcnews.to/2tRNVG5>.

⁹ Matt Zapotosky, Devlin Barrett, Ann E. Marimow, and Spencer S. Hsu, *Prosecutors quit amid escalating Justice Dept. fight over Roger Stone's prison term*, *Washington Post*, Feb. 11, 2020, available at <https://wapo.st/37ocN1s>.

Giuliani to send damaging information directly to DOJ about former Vice President Joe Biden.¹⁰ The allegations in this letter should be considered with those previously raised by CREW.

Authority to Investigate Attorney Misconduct

As you know, while the Inspector General is the person in most executive branch agencies responsible for investigating alleged misconduct,¹¹ DOJ's Inspector General lacks independent authority to investigate alleged misconduct involving Attorney General Barr or other DOJ attorneys because of a carve-out provision in the Inspector General Act of 1978.¹² For misconduct allegations against DOJ attorneys, primary responsibility for investigations rests with DOJ's Office of Professional Responsibility ("OPR").¹³ OPR is responsible for receiving, reviewing and investigating "allegations of misconduct involving Department attorneys that relate to the exercise of their authority to investigate, litigate or provide legal advice" and "any information concerning conduct by a Department employee that may be in violation of law, regulations or orders, or applicable standards of conduct."¹⁴

To ensure that Attorney General Barr is held to the highest professional standards consistent with what is expected of our nation's principal law enforcement agency,¹⁵ CREW requests that your offices jointly conduct an investigation into Attorney General Barr's conduct consistent with past investigations involving the alleged misconduct of an attorney general.¹⁶

Background

Attorney General Barr's Involvement in the Ukraine Pressure Campaign

As CREW previously explained, Attorney General Barr was implicated in the Ukraine Pressure Campaign in an August 12, 2019 whistleblower complaint filed with Intelligence Community Inspector General ("ICIG") Michael Atkinson, which alleged that President Trump was "using the power of his office to solicit interference from a foreign country in the 2020 U.S. election" by "pressuring a foreign country to investigate one of the President's main domestic

¹⁰ Matt Zapotosky and Devlin Barrett, *Barr acknowledges Justice Dept. has created 'intake process' to vet Giuliani's information on Bidens*, *Washington Post*, Feb. 10, 2020, available at <https://wapo.st/2UMGvik>.

¹¹ Walter M. Shaub, Jr., *OGE and the Inspector General Community*, July 17, 2015, Office of Government Ethics website, available at <https://www.oge.gov/web/oge.nsf/Resources/OGE+and+the+Inspector+General+Community>.

¹² Inspector General Act of 1978, Pub. L. 95-452, 8E, Oct. 12, 1978, 92 Stat. 1101 ("In carrying out the duties and responsibilities specified in the Act, the Inspector General of the Department of Justice . . . shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice. . . .").

¹³ *Id.*; OPR website, "About OPR" page, available at <https://www.justice.gov/opr/about-opr>.

¹⁴ *Id.*; 28 C.F.R. § 0.39a.

¹⁵ OPR website.

¹⁶ See DOJ Office of the Inspector General and DOJ Office of Professional Responsibility, *An Investigation into the Removal of Nine U.S. Attorneys in 2006*, Sept. 2008, available at <https://oig.justice.gov/special/s0809a/final.pdf>.

political rivals.”¹⁷ The complaint implicated Attorney General Barr in a July 25, 2019 telephone call between President Trump and Ukrainian President Volodymyr Zelensky in which President Trump repeatedly called on President Zelensky to speak with Attorney General Barr and President Trump’s personal attorney Mr. Giuliani about pursuing investigations into issues related to the 2016 U.S. Presidential election and into Vice President Biden and his son’s position with Burisma, a natural gas company in Ukraine.¹⁸ The whistleblower further noted that the phone call took place in the context of a national security policy change made by President Trump that suspended U.S. aid to Ukraine earlier in July.¹⁹ After reviewing the complaint, Inspector General Atkinson deemed it credible.²⁰

The allegations in the whistleblower complaint were corroborated by a five-page memorandum (“White House Memorandum”) released by the White House that summarized the July 25 telephone conversation between President Trump and President Zelensky.²¹ The White House Memorandum corroborates the whistleblower allegations that President Trump asked President Zelensky to investigate two matters, one involving the 2016 election and the other involving Vice President Biden, and also makes clear that President Trump repeatedly asked President Zelensky to speak with Attorney General Barr and Mr. Giuliani about them.²²

Nevertheless, DOJ made two questionable decisions to close down possible investigations into the Ukraine Pressure Campaign based on the whistleblower’s allegations. First, DOJ’s Criminal Division declined to investigate the matter based on a highly limited review of relevant evidence and a narrow interpretation of campaign finance law.²³ With these restraints in place, the Criminal Division apparently failed to consider that the investigations being pursued were prompted by President Trump’s personal attorney in furtherance of his client’s personal, political interests, and that other possible criminal law provisions might be implicated. Second, DOJ’s Office of Legal Counsel (“OLC”) issued a legal opinion concluding that the alleged conduct did not trigger a reporting requirement to congressional intelligence committees.²⁴ If it had prompted disclosure to Congress, the whistleblower complaint would have likely prompted an immediate congressional investigation into the underlying allegations.

¹⁷ Letter to Senator Richard Burr and Rep. Adam Schiff from an unnamed whistleblower, Aug. 12, 2019 (“Whistleblower Complaint”), available at <https://bit.ly/2lXyus1>; Letter from ICIG Michael Atkinson to Acting DNI Joseph Maguire, Aug. 26, 2019 (“Atkinson Letter”), available at <https://bit.ly/2nWqjwW>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Atkinson Letter.

²¹ Memorandum of Telephone Conversation, Telephone conversation with President Zelensky of Ukraine, Sept. 24, 2019 (“White House Memorandum”), available at <https://bit.ly/2n4ZFBg>.

²² *Id.*

²³ Devlin Barrett, Matt Zapotosky, Carol D. Leonnig, and Shane Harris, Trump offered Ukrainian president Justice Dept. help in an investigation of Biden, memo shows, *Washington Post*, Sept. 26, 2019 (DOJ reviewed only the “official record of the call” and concluded that under campaign finance law, “help with a government investigation could not be quantified as ‘a thing of value’”), available at <https://wapo.st/2mAVey7>.

²⁴ Memorandum Opinion for the General Counsel of the Director of National Intelligence, “Urgent Concern” Determination by the Inspector General of the Intelligence Community, Sept. 24, 2019, available at <https://bit.ly/2mmm1OI>.

DOJ made these decisions even after it received a second criminal referral from the Central Intelligence Agency's General Counsel, Courtney Simmons Elwood. Ms. Elwood's criminal referral was based on a separate accusation she received anonymously from the whistleblower.²⁵ On August 14, 2019, Ms. Elwood reportedly participated in a conference call with John Eisenberg, the senior national security lawyer at the White House, and John Demers, Assistant Attorney General for National Security.²⁶ Ms. Elwood and Mr. Eisenberg reportedly informed Mr. Demers that the "allegations merited examination" by the DOJ.²⁷ Although there is no indication of a written referral, Ms. Elwood reportedly viewed the communication as a criminal referral to DOJ.²⁸ After reading the transcript of the call at the White House the next day,²⁹ Mr. Demers then reportedly alerted Deputy Attorney General Jeffrey A. Rosen and Associate Attorney General for the Criminal Division Brian A. Benczkowski about the allegations.³⁰ Attorney General Barr reportedly "was briefed" on the matter around this time, but "did not oversee the discussions about how to proceed."³¹

New Information Further Implicates Attorney General Barr in the Ukraine Pressure Campaign

Since CREW filed its October 7 letter, two major witnesses – a key associate of Mr. Giuliani, Lev Parnas, and former National Security Advisor John Bolton – have offered relevant information that provides new details about Attorney General Barr's knowledge and involvement in the Ukraine Pressure Campaign.

In a January 2020 television interview, Mr. Parnas asserted that Attorney General Barr was "on the team" of people involved with Mr. Giuliani's efforts to obtain a public announcement from Ukraine about its investigation into Vice President Biden while they were occurring.³² Asked if he knew whether Mr. Giuliani had contact with or had spoken to Attorney General Barr specifically about Ukraine, Mr. Parnas responded "absolutely."³³ Mr. Parnas also said he knew that Attorney General Barr spoke with attorneys Victoria Toensing and Joe diGenova about it.³⁴ While Mr. Parnas acknowledged he did not speak personally with Attorney General Barr, he said that he witnessed "lots of conversations" that Mr. Giuliani and Mr.

²⁵ Ken Dilanian and Julia Ainsley, CIA's top lawyer made 'criminal referral' on complaint about Trump Ukraine call, *NBC News*, Oct. 4, 2019, available at <https://nbcnews.to/2URGuKa>; Julian E. Barnes, Michael S. Schmidt, Adam Goldman, and Katie Benner, White House Knew of Whistleblower's Allegations Soon After Trump's Call With Ukraine Leader, *New York Times*, Sept. 26, 2019, available at <https://nyti.ms/38tZ92w>.

²⁶ Dilanian and Ainsley, *NBC News*, Oct. 4, 2019.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Barnes, Schmidt, Goldman, and Benner, *New York Times*, Sept. 26, 2019.

³⁰ *Id.*

³¹ *Id.*

³² Parnas Transcript.

³³ *Id.*

³⁴ *Id.*

diGenova had with Attorney General Barr.³⁵ According to Mr. Parnas, “they were all best friends. . . . Attorney General Barr was basically on the team.”³⁶

Mr. Parnas also suggested that the Ukraine Pressure Campaign was linked to Attorney General Barr through U.S. Attorney John Durham’s investigation into the origins of the FBI’s Russia investigation. According to Mr. Parnas:

We knew about the Durham investigation, and that was going to be part [of it] – I mean, Attorney General Barr wanted to get to the bottom of the Biden stuff and everything. I think he might have got upset that Trump talked – the president ousted [sic] him, maybe, he didn’t want to be in the public eye that he was doing it, but it was known internally that [Barr] was investigating the investigators.³⁷

In addition to Mr. Parnas’ disclosures, revelations from a yet-to-be-released book by Mr. Bolton reportedly includes new details that offers insight into relevant discussions Mr. Bolton had with Attorney General Barr and others about aspects of the Ukraine Pressure Campaign.³⁸ According to the *New York Times*, in the book Mr. Bolton discloses that after President Trump’s July 25 phone call with President Zelensky, Mr. Bolton “raised” with Attorney General Barr “his concerns about Mr. Giuliani, who was pursuing a shadow Ukraine policy, encouraged by the president, and told Mr. Barr that the president had mentioned him on the call.”³⁹ This conversation further implicates Attorney General Barr in the Ukraine Pressure Campaign.

Mr. Parnas’ allegation that Attorney General Barr was “on the team” further appears to comport with President Trump’s own take on the situation and helps explain why President Trump repeatedly asked President Zelensky in their July 25 call to speak with both Attorney

³⁵ *Id.*

³⁶ *Id.* Mr. Parnas also suggested another connection between the Ukraine Pressure Campaign and DOJ involving the same individuals, providing specific details about working with Mr. Giuliani, Mr. diGenova, and Ms. Toensing to bring an end to DOJ’s extradition case against Ukrainian oligarch Dmytro Firtash for bribery and money laundering. Parnas Transcript. Mr. Parnas explained that he helped broker a deal with Mr. Firtash, telling him “that he’s being prosecuted for no reason” and “it could get taken care of.” *Id.* In return for help getting DOJ to drop its extradition case, Mr. Parnas said, Mr. Firtash offered up information that would be damaging to the Mueller Investigation and to facilitate the announcement by the Ukrainian government of an investigation into Vice President Biden. *Id.* Considering the evidence of Attorney General Barr’s involvement in other aspects of the Ukraine Pressure Campaign, any investigation should examine whether he was involved in the extradition case against Mr. Firtash and his knowledge of the alleged offer.

³⁷ Parnas Transcript. See Adam Goldman, Charlie Savage, and Michael S. Schmidt, Barr Assigns U.S. Attorney in Connecticut to Review Origins of Russia Inquiry, *New York Times*, May 13, 2019, available at <https://nyti.ms/2LIIMtf>; Matt Zapotosky and Felicia Sonmez, Barr taps U.S. attorney in Connecticut to investigate the origins of Russia probe, *Washington Post*, May 13, 2019, available at <https://wapo.st/2xGIPfj>; Julian E. Barnes, Katie Benner, Adam Goldman, and Michael S. Schmidt, Justice Dept. Seeks to Question C.I.A. in Its Own Russia Investigation, *New York Times*, June 12, 2019, available at <https://nyti.ms/2IbDWzK>.

³⁸ Haberman and Schmidt, *New York Times*, Jan. 28, 2020.

³⁹ *Id.*

General Barr and Mr. Giuliani about pursuing investigations into Vice President Biden and Burisma.⁴⁰

New Evidence Corroborates the Whistleblower Complaint and Raises Questions About DOJ's Handling of the Matter

New evidence, some of it revealed through President Trump's impeachment proceedings, also corroborates the allegations in the whistleblower complaint. This information raises questions about DOJ's handling of the matter, including whether it was tainted by Attorney General Barr's possible involvement in it.

Much of what Mr. Parnas recently disclosed corroborates the allegations in the whistleblower complaint that President Trump used his power to solicit interference from as foreign country in the 2020 election by pressuring Ukraine to investigate Vice President Biden. According to Mr. Parnas, the Ukraine Pressure Campaign "was never about corruption," but "strictly about Burisma, which included Hunter Biden and Joe Biden" and that President Trump "knew exactly what was going on."⁴¹ By indicating that he would not have engaged in any communications with Ukrainians "without the consent" of Mr. Giuliani and President Trump, Mr. Parnas conveyed that his own role in the Ukraine Pressure Campaign was sanctioned by Mr. Giuliani and President Trump. Moreover, Mr. Parnas said, the Ukrainians he met with would never have spoken to him without having been "told to meet with me."⁴² Mr. Parnas "was on the ground" doing President Trump's and Mr. Giuliani's "work."⁴³ Mr. Parnas explained that this was all part of a coordinated effort. It "was all connected" with the agenda "to make sure the Ukrainians announced the Biden investigation."⁴⁴

Mr. Bolton's book similarly corroborates allegations in the whistleblower complaint. According to the *New York Times*, the book discloses an August 2019 conversation in which President Trump told Mr. Bolton that he wanted to continue the freeze on military aid to Ukraine until they helped investigate the Bidens.⁴⁵ Mr. Bolton also apparently reveals that Secretary of State Mike Pompeo "acknowledged privately" that there was "no basis" to Mr. Giuliani's claims that the U.S. ambassador to Ukraine was corrupt and that he "believed Mr. Giuliani may have been acting on behalf of other clients" – an apparent reference to the team's efforts to get the ambassador removed based on her anti-corruption agenda.⁴⁶

Further evidence supporting the whistleblower's allegations about the Ukraine Pressure Campaign came to light in the impeachment proceedings. On September 9, the House Permanent Select Committee on Intelligence, the Committee on Oversight and Reform, and the Committee

⁴⁰ White House Memorandum.

⁴¹ Parnas Transcript.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Haberman and Schmidt, *New York Times*, Jan. 28, 2020.

⁴⁶ *Id.*

on Foreign Affairs announced an investigation into a “scheme” by President Trump and his personal attorney, Mr. Giuliani, “to improperly pressure the Ukrainian government to assist the President’s bid for reelection.”⁴⁷ Lending significant credibility to the whistleblower’s allegations, the impeachment inquiry produced testimony from several White House staff members who personally listened in on the July 25 telephone call and who confirmed through testimony that President Trump solicited foreign interference from President Zelensky for his personal political benefit.⁴⁸

The inquiry also generated credible evidence that President Trump withheld \$391 million in U.S. military aid to Ukraine beginning in early July as part of an “effort to extract from a foreign nation the personal political benefits sought by the President,”⁴⁹ and that a “coveted White House meeting” would only happen after President Zelensky committed to publicly announcing two political investigations being demanded by President Trump and Mr. Giuliani.⁵⁰ The inquiry further established evidence that the July 25 call was part of a “months-long campaign driven by President Trump in which senior U.S. officials, including the Vice President, the Secretary of State, the Acting Chief of Staff, the Secretary of Energy, and others were either knowledgeable of or active participants in an effort to extract from a foreign nation the personal political benefits sought by the President.”⁵¹

Raising additional questions about the legality of the conduct of the Trump administration, GAO recently determined that OMB violated the Impoundment Control Act (“ICA”) when it withheld from obligation the \$214 million appropriated to the Department of Defense for security assistance to Ukraine.⁵² Concluding that OMB “withheld the funds from obligation for an unauthorized reason in violation of the ICA,” GAO found that “the law does not permit the President to substitute his own policy priorities for those that Congress has enacted into law,” and that OMB’s claims that the withholding was simply “a programmatic delay . . . [has] no basis in law.”⁵³ GAO further questioned whether actions taken by OMB to delay the obligation of foreign military financing for Ukraine that had been appropriated to the State Department similarly violated the ICA, and said it will continue to pursue the matter.⁵⁴

⁴⁷ Report of the House Permanent Select Committee on Intelligence, Pursuant to H. Res. 660 in Consultation with the House Committee on Oversight and Reform and the House Committee on Foreign Affairs, The Trump-Ukraine Impeachment Inquiry Report, Dec. 2019 (“Impeachment Report”), at 25, available at https://intelligence.house.gov/uploadedfiles/20191203_-_full_report_hpsci_impeachment_inquiry_-_20191203.pdf.

⁴⁸ *Id.* at 105, 107.

⁴⁹ *Id.* at 9, 18.

⁵⁰ *Id.* at 18, 34.

⁵¹ *Id.* at 9.

⁵² GAO Decision; 2 U.S.C. § 684.

⁵³ GAO Decision.

⁵⁴ *Id.* State and OMB have thus far not produced information requested by GAO.

Legal Analysis

As CREW explained in its October 7 letter, Attorney General Barr's possible involvement in DOJ's handling of a whistleblower report raises numerous ethics issues.⁵⁵ These concerns include a disqualifying financial interest under 18 U.S.C. § 208; a lack of impartiality in overseeing related DOJ matters; and an apparent misuse of public office for President Trump's personal political benefit in violation of the Standards of Ethical Conduct for Employees of the Executive Branch ("Standards of Conduct").⁵⁶

The criminal conflict of interest statute, 18 U.S.C. § 208, prohibits an executive branch employee from participating personally and substantially in any particular government matter that will have a direct and predictable effect on his known financial interests. Federal employees are obligated "to place loyalty to the Constitution, laws and ethical principles above private gain."⁵⁷ Because "public service is a public trust," federal employees' decisions and actions must be made in the "best interests of the American people."⁵⁸ For this reason, the government-wide Standards of Conduct require all executive branch employees to act impartially and to avoid any actions creating the appearance that they are violating the applicable ethical standards.⁵⁹ In addition to the impartiality regulation, DOJ regulations prohibit a DOJ employee, without written authorization, from participating in a criminal investigation or prosecution if he has a personal or political relationship with any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution, or any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.⁶⁰

Attorney General Barr was personally named in the whistleblower complaint and the White House Memorandum. Accordingly, he was a potential subject of any investigation and clearly barred from participating in related DOJ matters without seeking authorization from agency ethics officials. There is no evidence that he received an authorization, and it would have been inappropriate for agency ethics officials to grant one because his participation would have tainted the credibility of DOJ's determinations regarding the whistleblower complaint. The recent disclosures by Mr. Parnas and Mr. Bolton about Attorney General Barr's knowledge and involvement in the Ukraine Pressure Campaign further bolster the necessity for his recusal based on lack of impartiality and financial conflicts of interest.⁶¹

⁵⁵ Oct. 7 Letter.

⁵⁶ *Id.*

⁵⁷ 5 C.F.R. § 2635.101(a), (b)(1).

⁵⁸ Justice Manual § 1-4.010.

⁵⁹ 5 C.F.R. §§ 2635.101(b)(8), (14).

⁶⁰ 28 C.F.R. § 45.2.

⁶¹ As CREW previously explained in its October 7 letter, consideration of the whistleblower complaint was a particular matter that directly and predictably affected Attorney General Barr's financial interests, and he appears to have participated in the matter. Oct. 7 Letter (citing 18 U.S.C. § 208). As a result of being named as a possible subject in the whistleblower complaint, Attorney General Barr had a disqualifying financial interest that this particular matter affected directly and predictably. *Id.* Had DOJ's Criminal Division opened an investigation, he would have needed to answer questions about his role in the underlying matter. *Id.* The new allegations that

Any involvement by Attorney General Barr in DOJ matters related to the Ukraine Pressure Campaign is cause for serious concern. While the extent of Attorney General Barr's involvement in DOJ's handling of the whistleblower complaint is not fully known, DOJ confirmed that Attorney General Barr did not formally recuse from these allegations even as it attempted to minimize his involvement.⁶² Attorney General Barr's failure to formally recuse may have unduly influenced decisions taken by DOJ, including OLC's opinion to help prevent the whistleblower complaint from being disclosed to Congress and the Criminal Division's decision not to investigate whistleblower allegations that were deemed credible by two separate government officials – ICIG Atkinson and CIA General Counsel Elwood.

New information about the Ukraine Pressure Campaign establishes the credibility of the whistleblower complaint, raising further doubts about the integrity of DOJ's decision to close the matter without investigation. Moreover, as CREW and others have explained, President Trump and others likely committed criminal offenses in carrying out the scheme, including: bribery (18 U.S.C. § 201); soliciting foreign campaign contributions (52 U.S.C. §§ 30109, 30121); coercion of political activity (18 U.S.C. § 610); misappropriation of federal funds (18 U.S.C. § 641); obstruction of Congress (18 U.S.C. §§ 1505, 1512(b), (c)); and deprivation of federal benefit for political contribution (18 U.S.C. § 601).⁶³

Attorney General Barr's apparent failure to recuse has tainted the Criminal Division's decision-making process and undermined its investigation and enforcement process. Accordingly, any role Attorney General Barr played in the Criminal Division's determination not to launch an investigation gave rise to at the very least substantial appearance concerns that he improperly used his public office and the resources of the DOJ to protect President Trump's personal political interests in violation of the Standards of Conduct.

Under circumstances such as these, where there is substantial evidence of criminal activity related to a criminal referral and significant conflicts of interest on the part of the Attorney General, the most appropriate course of action was for Attorney General Barr to recuse and for the acting Attorney General to decide whether the case should be reassigned to a U.S. Attorney's Office or if it would be in the public interest to appoint a Special Counsel.⁶⁴

Attorney General Barr was "on the team" and discussed concerns about Mr. Giuliani with Mr. Bolton further implicate him and raise additional questions he would have needed to answer. The decision not to investigate allowed him to avoid incurring legal fees during the investigation, as well as the risk of civil or criminal liability as a result of the investigation. *Id.*

⁶² Josh Gerstein, *Barr is thrust back in harsh glare as Ukraine scandal grows*, *Politico*, Sept. 25, 2019, available at <https://politi.co/2IOi2dB>; Evan Perez and Katelyn Polantz, *Trump's attorney general has "minimal involvement" as Justice department whistleblower complaint referral*, *CNN*, Sept. 25, 2019, available at <https://cnn.it/2pmECva>.

⁶³ See CREW Report on Criminal Abuse of Power: Trump's Five Crimes Connected to Ukraine; Andrew Weissmann, Sam Berger, Randall Eliason, Barbara McQuade, Paul Seamus Ryan, Susan Simpson, Gary Stein, and Michael Stern, *Federal Criminal Offenses and the Impeachment of Donald J. Trump*, available at <https://bit.ly/3cdSDiE>; Max Bergmann and Sam Berger, *Trump Committed Crimes in His Ukraine Shakedown*, available at <https://amp.rg.gs/3a08kIy>; James D. Harmon Jr., *I Voted for Trump, and I Believe He May be Guilty of Bribery*, *New York Times*, Feb. 5, 2020, available at <https://nyti.ms/3aaktui>; Letter from Noah Bookbinder to U.S. Attorney Geoffrey S. Berman, Feb. 20, 2020, available at <https://go.aws/2VqVYof>.

⁶⁴ 28 C.F.R. §§ 600.1-2.

Conclusion

Attorney General Barr continues to place his loyalty to President Trump's personal political interests above his responsibilities to the American people to uphold the Constitution, the law, and ethical principles. With new reports that Attorney General Barr was "on the team" of those involved with the Ukraine Pressure Campaign and had been consulted by Mr. Bolton about Mr. Giuliani's conduct and the Ukraine Pressure Campaign, it is imperative that your offices fully investigate Attorney General Barr's participation in the whistleblower complaint and related DOJ matters to determine whether he violated applicable ethics laws and regulations. Your offices should further review whether Attorney General Barr's conduct compromised DOJ's decision-making process and undermined the integrity and independence expected of our nation's principal law enforcement agency.

Sincerely,

A handwritten signature in blue ink, appearing to read "Noah Bookbinder".

Noah Bookbinder
Executive Director

A handwritten signature in blue ink, appearing to read "Virginia Canter".

Virginia Canter
Chief Ethics Counsel

United States Senate

WASHINGTON, DC 20510

April 30, 2019

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Corey R. Amundson
Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Suite 3266
Washington, D.C. 20530

Dear Inspector General Horowitz and Director Amundson:

We write regarding the serious concerns that have been raised about the actions of Attorney General William Barr with respect to his handling of Special Counsel Robert Mueller's report. Attorney General Barr's actions raise significant questions about his decision not to recuse himself from overseeing the Special Counsel's investigation, whether his actions with respect to the release of the report complied with Department of Justice policies and practices, and whether he has demonstrated sufficient impartiality to continue overseeing the fourteen criminal matters related to the Special Counsel's investigation that were referred principally to other components of the Department of Justice and the Federal Bureau of Investigation (FBI).¹ In light of these concerns, we respectfully request that the Office of the Inspector General and the Office of Professional Responsibility immediately begin investigations of these issues.

Six months before his nomination to be Attorney General, Mr. Barr wrote an unsolicited 19-page memo to Deputy Attorney General Rod Rosenstein and Assistant Attorney General for the Office of Legal Counsel Steve Engel criticizing Special Counsel Mueller's investigation of obstruction of justice by Donald Trump.² In his memo, Mr. Barr conceded that he was "in the dark about many facts," and yet he asserted that "Mueller's obstruction theory is fatally misconceived" and premised on a "legally insupportable reading of the law."³ Mr. Barr also argued that "Mueller should not be permitted to demand that the President submit to interrogation about alleged obstruction."⁴ Despite this memo, which presents, at the very least, an appearance of bias, Mr. Barr refused to recuse himself from directly overseeing Special Counsel Mueller's investigation when he was confirmed as Attorney General.⁵ While the Justice Department stated that Attorney General Barr's decision to not recuse was consistent with the advice of senior ethics attorneys, it provided few details about the nature of this seemingly anomalous decision. Given the Attorney General's subsequent troubling actions in handling the Special Counsel's report, further investigation of the process leading to his non-recusal decision is warranted.

¹ Department of Justice, *Report On The Investigation Into Russian Interference In The 2016 Presidential Election*, Appendix D, <https://www.justice.gov/storage/report.pdf>.

² Memo from Bill Barr to Deputy Attorney General Rod Rosenstein and Assistant Attorney General Steve Engel, June 8, 2018, available at <https://int.nyt.com/data/documenthelper/549-june-2018-barr-memo-to-doj-mue/b4c05e39318dd2d136b3/optimized/full.pdf#page=1>.

³ *Id.* at 1.

⁴ *Ibid.*

⁵ See Josh Gerstein, *Barr won't recuse himself from Mueller oversight*, POLITICO (March 4, 2019), <https://www.politico.com/story/2019/03/04/barr-wont-recuse-mueller-1203210>.

Attorney General Barr's actions following the completion of Special Counsel Mueller's report raise further questions regarding his impartiality towards the Special Counsel's investigation and the appropriateness of his conduct as the chief law enforcement officer of the United States. After notifying Congress and the public on Friday, March 22, 2019, that he had received the Special Counsel's report,⁶ Attorney General Barr released a four-page letter on March 24, 2019, that purported "to summarize the principal conclusions reached by the Special Counsel."⁷ The letter, however, selectively quoted fragments from the Special Counsel's report. Moreover, the subsequent release of the redacted report revealed that the Attorney General's letter had presented quotations from the report out of context or with key words omitted to suggest that the President had been cleared of wrongdoing.⁸ Given that the Special Counsel's report included executive summaries that seem to have been readily available for public release, we found the letter particularly concerning as a possible effort to mislead the public.

We are also troubled by the Attorney General's use of his March 24 letter to summarily conclude that the "evidence developed during the Special Counsel's investigation is not sufficient to establish that the President committed an obstruction-of-justice offense."⁹ The letter asserts, without any justification, that the Special Counsel's decision not to reach "any legal conclusions leaves it to the Attorney General to determine whether the conduct described in the report constitutes a crime."¹⁰ It is unclear what statute, regulation, or policy led the Attorney General to interject his own conclusion that the President's conduct did not amount to obstruction of justice, particularly when he had not yet released the redacted Special Counsel's report, which explicitly noted that "if we had confidence after a thorough investigation of the facts that the President clearly did not commit obstruction of justice, we would so state."¹¹ The Attorney General's conduct is even more concerning given that the report itself identifies Congress's impeachment authority and future prosecution once the President leaves office as possible ways to address the obstruction of justice evidence. But the report does not refer to a purported role of the Attorney General to make legal conclusions that the Special Counsel expressly declined to make.¹²

In addition, we found disturbing that Attorney General Barr provided the President's personal attorneys access to the Special Counsel's report before Congress and the public. News reports indicate that the Attorney General granted Rudy Giuliani, Jay Sekulow and two other Trump lawyers access to review the full redacted report for two days before providing the redacted report to Congress and the public.¹³ While the Attorney General asserted that the President's personal attorneys' *request* to review the redacted report before its public release "was consistent with the practice followed under the Ethics in Government Act," we have serious concerns about

⁶ Letter from Attorney General William Barr (March 22, 2019), available at <https://int.nyt.com/data/documenthelper/708-attorney-general-william-barr-letter-mueller/b7fd3a05ab618bad8544/optimized/full.pdf#page=1>.

⁷ Letter from Attorney General William Barr (March 24, 2019), available at <https://www.documentcloud.org/documents/5779688-AG-March-24-2019-Letter-to-House-and-Senate.html>.

⁸ See Charlie Savage, *How Barr's Excerpts Compare to the Mueller Report's Findings*, N.Y. TIMES (April 20, 2019), <https://www.nytimes.com/2019/04/19/us/politics/mueller-report-william-barr-excerpts.html>.

⁹ *Supra* note 7.

¹⁰ *Ibid.*

¹¹ *Supra* note 1, at vol. 2, p. 8.

¹² See, e.g., *supra* note 1, at vol. 2, p. 8, 178.

¹³ See, e.g., Karen Freifeld, *Trump lawyers reviewed Mueller report for 10 hours before it was made public*, REUTERS (April 19, 2019), <https://www.reuters.com/article/us-usa-trump-russia-lawyers-idUSKCN1RV18M>.

the propriety of the Attorney General's decision to grant access to the full redacted report, particularly when he did not appear to grant other individuals named in the report similar access and he did not limit review to the portions of the report referencing Donald Trump.¹⁴ This decision to purportedly act "consistent with the practice" under an expired law merits exacting review to determine whether the Attorney General's action was appropriate and justified, given that he ignored other provisions of this law, such as those requiring Congress to be provided with information necessary to enable it to conduct proper oversight.¹⁵

We further believe that Attorney General Barr's decision to hold a press conference to assert his own views regarding the report well before releasing the redacted report and his statements at the press conference warrant serious scrutiny as to whether they were proper and consistent with Justice Department policies and practices. At the press conference, Attorney General Barr appeared to make statements that were inconsistent with the Special Counsel's findings and demonstrated a lack of impartiality. For example, the Attorney General claimed that "the White House fully cooperated with the Special Counsel's investigation," despite the Special Counsel's detailed findings of President Trump's efforts to obstruct the investigation, refusal to be interviewed by the Special Counsel, and submission of "inadequate" written responses.¹⁶ The Attorney General also repeatedly asserted that there was "no collusion," defending the President as "frustrated and angered by a sincere belief that the investigation was undermining his presidency."¹⁷

Moreover, the Attorney General's statements at the press conference compounded the misleading impression he created in his March 24 letter regarding the Special Counsel's determinations regarding the criminality of the President's conduct. In both his March 24 letter and his statements at the press conference, Attorney General Barr gave the misimpression that the guidelines from the Justice Department's Office of Legal Counsel (OLC) against indicting a sitting president played little to no role in the Special Counsel's decision to not charge the President with obstruction of justice.¹⁸ The redacted report, however, makes clear that the OLC's guidelines played a significant role in the Special Counsel's decision, stating that the Special Counsel's office "accepted OLC's legal conclusion for the purpose of exercising prosecutorial jurisdiction."¹⁹ These statements and actions, along with the Attorney General's prior statements, such as his claim that the federal government's investigation of the Trump campaign constituted "spying," also indicate that he lacks the impartiality to continue overseeing ongoing matters stemming from the Special Counsel's investigation.²⁰

¹⁴ Attorney General William P. Barr Delivers Remarks on the Release of the Report on the Investigation into Russian Interference in the 2016 Presidential Election, April 18, 2019, <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-release-report-investigation-russian>.

¹⁵ See, e.g., 28 U.S.C. 595(c); 28 U.S.C. 594(h).

¹⁶ Compare *ibid.* with *supra* note 1, Appendix C.

¹⁷ *Supra* note 15.

¹⁸ Aaron Blake, *How William Barr successfully pre-spun the Mueller report for Trump*, N.Y. TIMES (April 19, 2019), https://www.washingtonpost.com/politics/2019/04/19/how-william-barr-successfully-pre-spun-mueller-report-trump/?utm_term=.122c1c6362ba.

¹⁹ *Supra* note 1, at vol. 1, p. 1.

²⁰ See, e.g., Nicholas Fandos and Adam Goldman, *Barr Asserts Intelligence Agencies Spied on the Trump Campaign*, N.Y. TIMES (April 10, 2019), <https://www.nytimes.com/2019/04/10/us/politics/barr-trump-campaign-spying.html>.

Given these concerns, we therefore urge the Office of the Inspector General and the Office of Professional Responsibility to initiate immediately investigations of the following matters:

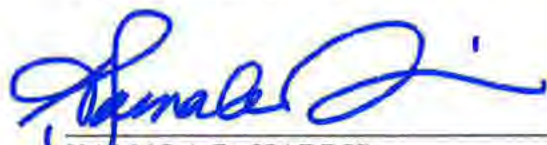
- Whether Attorney General Barr's decision not to recuse himself from overseeing the Special Counsel's investigation was proper and consistent with ethical rules and practices within the Department of Justice;
- Whether Attorney General Barr's four-page letter dated March 24, 2019, regarding Special Counsel Mueller's report was misleading and whether it was consistent with Department of Justice policies and practices;
- Whether Attorney General Barr's actions in permitting President Trump's private attorneys to review the entire Special Counsel's report at length before sharing the report with Congress, other individuals named in the report, and the public, was appropriate and consistent with Department of Justice policies and practices;
- Whether Attorney General Barr's press conference on April 18, 2019, regarding Special Counsel Mueller's report, which took place well before he released a redacted version of the report, was misleading and consistent with Department of Justice policies and practices;
- Whether Attorney General Barr has demonstrated sufficient impartiality to continue overseeing the ongoing matters related to the Special Counsel's investigation referenced in Appendix D of the Special Counsel's report;
- Whether Attorney General Barr took any steps related to the transfers and referrals listed in Appendix D of the report that were contrary to the advice of career prosecutors at the Justice Department or the Department's policies; and
- Whether any of Attorney General Barr's other actions or statements call into question his impartiality such that they warrant his recusal from particular matters or are relevant to the Senate Judiciary Committee's oversight into the Department of Justice.

Thank you for your consideration of this important matter. We look forward to a prompt response.

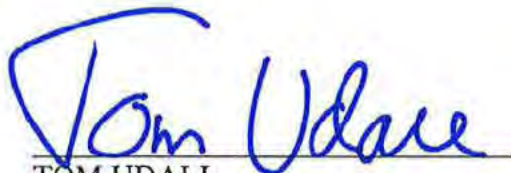
Sincerely,


MAZIE K. HIRONO
United States Senator


RICHARD BLUMENTHAL
United States Senator


KAMALA D. HARRIS
United States Senator


EDWARD J. MARKEY
United States Senator


TOM UDALL
United States Senator


RON WYDEN
United States Senator


SHELDON WHITEHOUSE
United States Senator


PATTY MURRAY
United States Senator


CORY A. BOOKER
United States Senator


JACK REED
United States Senator


KIRSTEN GILLIBRAND
United States Senator


AMY KLOBUCHAR
United States Senator

United States Senate

WASHINGTON, DC 20510

November 1, 2019

Jeffrey R. Ragsdale
Acting Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Suite 3266
Washington, D.C. 20530

Dear Director Ragsdale:

We write regarding the troubling reporting that the investigation Attorney General William Barr launched into the origins of the government's investigation into Russian interference in the 2016 election has shifted to a criminal inquiry.¹ White House acting Chief of Staff Mick Mulvaney recently tied this investigation to the Trump Ukraine matters, indicating that military aid to Ukraine had been withheld, in part, to pressure Ukraine to cooperate with the investigation.² This raises significant questions about whether Attorney General Barr is using the weighty powers of the Justice Department to further the President's personal and political goals, instead of fairly and impartially administering justice. In light of these concerns, we respectfully request that the Office of Professional Responsibility immediately begin investigations of these issues.

As an initial matter, we are concerned that Attorney General Barr's now criminal investigation may lack a proper legal and factual predicate. The unanimous assessment by the U.S. intelligence community confirmed that Russia interfered in the 2016 presidential election. Special Counsel Mueller documented this Russian interference in detail, and his investigation resulted in indictments, convictions, or guilty pleas of 34 individuals, including top advisers to President Trump and 25 Russian nationals, and three Russian entities.³ Moreover, the Senate Intelligence Committee reaffirmed in a two-volume, bipartisan report, that Russia waged a broad campaign to interfere in the 2016 election in favor of Donald Trump.⁴

Despite these detailed findings by the intelligence community, the Special Counsel, and the Senate Intelligence Committee, Attorney General Barr appears to be using the Justice Department's resources and authority to undermine their assessment. In fact, reporting indicates

¹ See, e.g., Katie Benner and Adam Goldman, *Justice Dept. Is Said to Open Criminal Inquiry Into Its Own Russia Investigation*, N.Y. TIMES (Oct. 24, 2019), <https://www.nytimes.com/2019/10/24/us/politics/john-durham-criminal-investigation.html>.

² See Stefan Becket, Grace Segers and Kathryn Watson, *Mulvaney links delay in Ukraine aid to DOJ investigation into 2016 — live updates*, CBS NEWS (Oct. 18, 2019), <https://www.cbsnews.com/live-news/trump-impeachment-inquiry-latest-kurt-volker-gordon-sondland-testimony-2019-10-17/>.

³ See Ryan Teague Beckwith, *Here Are All of the Indictments, Guilty Pleas and Convictions From Robert Mueller's Investigation*, TIME (July 24, 2019), <https://time.com/5556331/mueller-investigation-indictments-guilty-pleas/>.

⁴ See David McCabe, *G.O.P.-Led Senate Panel Affirms Russia Attacked Election, and Urges Action*, N.Y. TIMES (Oct. 8, 2019), <https://www.nytimes.com/2019/10/08/business/senate-report-russia-election.html>.

that Attorney General Barr's investigation involves pursuing "unfounded conspiracy theories" and "right-wing attacks" on the Russia investigation.⁵

Moreover, the manner in which Attorney General Barr has handled this matter raises questions of whether there were undue political influences or purposes in pursuing this review of the Russia investigation. When Attorney General Barr first announced he had initiated his inquiry, he accused the FBI of "spying" on the Trump campaign.⁶ Such statements not only serve to undermine the Russia investigation, they also demonstrate the Attorney General's prejudgment of his own inquiry into that investigation. In addition, there appears to be no indication that he received a referral from an investigative agency or even satisfied the "reasonable indication" standard that might justify a criminal probe, particularly one involving other federal government officials.⁷ Rather, according to recent reports, the Attorney General seems to be taking unorthodox actions, including meeting personally with foreign intelligence officials, in pursuit of baseless conspiracy theories promoted by the President.⁸

Mr. Mulvaney's recent statement that the White House withheld military aid to Ukraine in part to push Ukraine to cooperate with Barr's "ongoing investigation" deepens our concern that the investigation is politically motivated. This statement is particularly concerning in light of the President's direct request, in a July 25 call, that the government of Ukraine conduct investigations implicating his political opponents and coordinate with Attorney General Barr in doing so. These concerns were underscored by Ambassador Bill Taylor's recent testimony that provided further context for the President's efforts to press Ukraine to conduct these investigations for his political purposes.⁹

Given these concerns, we urge the Office of Professional Responsibility to initiate immediately investigations of the following matters:

- Whether Attorney General Barr's actions in initiating and conducting a now criminal probe into the origins of the Russia investigation, including closely overseeing it and personally participating in it, were appropriate and consistent with ethical rules and Department of Justice policies and practices;

⁵ Adam Goldman and William K. Rashbaum, *Review of Russia Inquiry Grows as F.B.I. Witnesses Are Questioned*, N.Y. TIMES (Oct. 19, 2019), <https://www.nytimes.com/2019/10/19/us/politics/durham-review-fbi-witnesses.html?module=inline>.

⁶ See Kevin Johnson and Kristine Phillips, *DOJ inquiry into origins of Russia investigation has shifted to criminal probe*, USA TODAY (Oct. 24, 2019), <https://www.usatoday.com/story/news/politics/2019/10/24/doj-inquiry-into-russia-investigation-shifts-criminal-probe/4091645002/>.

⁷ See, e.g., *supra* note 1; Ken Dilanian, Julia Ainsley and Tom Winter, *AG Barr expands mysterious review into origin of Russia investigation*, NBC NEWS (Oct. 19, 2019), <https://www.nbcnews.com/politics/justice-department/ag-barr-expands-controversial-review-origin-russia-investigation-n1068971>.

⁸ See Devlin Barrett, Shane Harris and Matt Zapotosky, *Barr personally asked foreign officials to aid inquiry into CIA, FBI activities in 2016*, WASH. POST (Sept. 30, 2019), https://www.washingtonpost.com/national-security/attorney-general-barr-personally-asked-foreign-officials-to-aid-inquiry-into-cia-fbi-activities-in-2016/2019/09/30/d50cd5c4-e3a5-11e9-b403-f738899982d2_story.html.

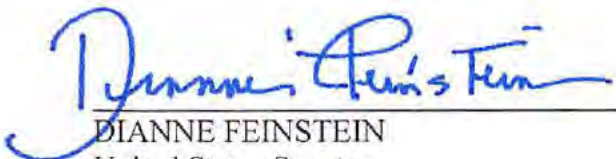
⁹ <https://www.nbcnews.com/politics/trump-impeachment-inquiry/bill-taylor-s-full-opening-statement-house-committees-n1070336>.

- Whether anyone in the White House or an associate of the President has communicated with Attorney General Barr about his decision to initiate the investigation or the way in which he is conducting the investigation, and whether such communications are appropriate and consistent with ethical rules and Department of Justice policies and practices;
- Whether Attorney General Barr's inquiry includes criminally investigating Justice Department employees; whether such investigations have been properly reported to the Office of the Inspector General, as required under 28 C.F.R. § 45.11; and whether these criminal investigations have proper legal and factual predicates; and
- Whether the fact that Attorney General Barr is named as a potential participant in the President's efforts to press Ukraine to investigate his political opponents warrants the Attorney General's recusal for any matters involving investigations into the origins of the Russia investigation, including efforts to engage Ukraine in these investigations.

Thank you for your consideration of this important matter. We look forward to your prompt response.

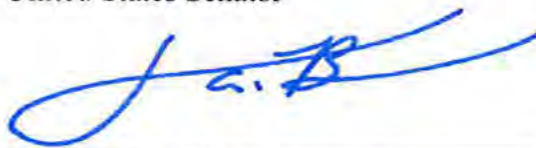
Sincerely,


MAZIE HIRONO
United States Senator


DIANNE FEINSTEIN
United States Senator

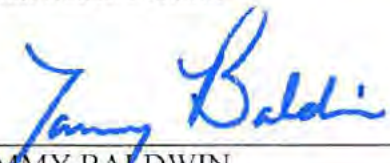

RICHARD BLUMENTHAL
United States Senator


SHELDON WHITEHOUSE
United States Senator


CORY A. BOOKER
United States Senator

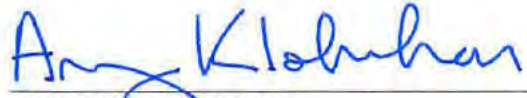

ROBERT P. CASEY, JR.
United States Senator


KIRSTEN GILLIBRAND
United States Senator


TAMMY BALDWIN
United States Senator



RICHARD J. DURBIN
United States Senator



AMY KLOBUCHAR
United States Senator

Cc: The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

KIRSTEN GILLIBRAND
NEW YORK
SENATOR
RUSSELL SENATE OFFICE BUILDING
SUITE 478
WASHINGTON, DC 20510-3205
202-224-4451

COMMITTEES:
ARMED SERVICES
ENVIRONMENT AND PUBLIC WORKS
AGRICULTURE
SPECIAL COMMITTEE ON AGING

United States Senate

WASHINGTON, DC 20510-3205

July 31, 2019

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, D.C. 20530

Dear Inspector General Horowitz,

On behalf of Eric Garner's family and the people of New York, I write to request that the Office of the Inspector General conduct a review of Attorney General William Barr's decision not to prosecute anyone in connection with the death of Eric Garner. Mr. Garner died in 2014 after being placed in an illegal chokehold during his arrest. Given that Mr. Garner's death, which was ruled a homicide, was captured on video and the Civil Rights Division reportedly recommending charges be filed, it is in the public's interest to have an independent review of the Garner investigation and the ultimate decision not to file charges.

As you are aware, the investigation into Mr. Garner's death spanned five years, two Administrations, four U.S. Attorneys General, and five U.S. Attorneys for the Eastern District of New York. I am deeply troubled by the length of time it took the Department to come to a final decision and am concerned by media reports that have outlined the internal disputes between the Justice Department and Eastern District investigators and prosecutors involved in this case. It was publicly reported that under former Attorney General Jeff Sessions, "(The) Civil rights division prosecutors recommended to the deputy attorney general, Rod Rosenstein, that charges be brought, but he declined to move forward."¹ Moreover, according to statements made by US Attorney Richard P. Donohue on July 16, 2019, in announcing the Department's decision, Attorney General Barr "made the decision himself" not to press charges against anyone, suggesting a disregard for the recommendations of career federal civil rights prosecutors.²

When allegations of police misconduct and excessive use of force are reported, it is imperative that the Justice Department uphold its duty to conduct oversight over local law enforcement and ensure that communities of color are protected from racial profiling and excessive use of force. Moreover, it is important that the public is able to have confidence in the

¹ Katie Benner, *Eric Garner's Death Will Not Lead to Federal Charges for N.Y.P.D. Officer*, N.Y. Times (July 16, 2019) <https://www.nytimes.com/2019/07/16/nyregion/eric-garner-case-death-daniel-pantaleo.html>

² Amber Jamieson and Tasneem Nashrulla, *The Police Officer Who Killed Eric Garner Will Officially Not Be Charged With Any Crimes*, BuzzFeed News (July 16, 2019) <https://www.buzzfeednews.com/article/amberjamieson/nypd-officer-eric-garner-federal-charges>

Department leadership's willingness to conduct unbiased investigations and engage in fair prosecutorial decision-making based on the evidence in the case, even where—indeed, especially where—the accused party is a member of law enforcement.

Thank you for your consideration of this request. I look forward to your reply.

Sincerely,

A handwritten signature in black ink that reads "Kirsten Gillibrand". The signature is fluid and cursive, with the first name "Kirsten" and last name "Gillibrand" clearly distinguishable.

Kirsten Gillibrand
United States Senator

From: [Delaney Marsco](#)
To: [OPR Complaints](#)
Cc: [Kedric Payne](#)
Subject: Complaint from Campaign Legal Center regarding Attorney General William P. Barr, Deputy Attorney General Jeffrey A. Rosen, and U.S. Attorney for the District of Columbia Timothy J. Shea
Date: Friday, February 21, 2020 11:15:35 AM
Attachments: [CLC Complaint to DOJ OPR - 2-21-20.pdf](#)

To Whom It May Concern,

Please see the attached complaint. Campaign Legal Center respectfully asks for an investigation into Attorney General William P. Barr, Deputy Attorney General Jeffrey A. Rosen, and U.S. Attorney for the District of Columbia Timothy J. Shea for potential ethics violations detailed in the complaint.

Please let me know if you have any questions.

Best wishes,

Delaney Marsco

Legal Counsel, Ethics

(b) (6)

Campaign Legal Center
1101 14th St. NW, Suite 400
Washington, DC 20005
campaignlegalcenter.org

[Facebook](#) | [Twitter](#)



February 21, 2020

Jeffrey R. Ragsdale
Acting Director
Office of Professional Responsibility
U.S. Department of Justice
Suite 3266
950 Pennsylvania Avenue N.W.
Washington, DC 20530
Submitted via email to opr.complaints@usdoj.gov

Dear Acting Director Ragsdale:

Campaign Legal Center ("CLC") respectfully requests that the U.S. Department of Justice ("DOJ") Office of Professional Responsibility investigate whether the recent intervention in two criminal prosecutions by three senior DOJ political appointees is a violation of the Standards of Ethical Conduct for Employees of the Executive Branch ("Standards of Conduct") and DOJ's internal policies for the conduct of employees ("Justice Manual"). As detailed below, Attorney General William P. Barr, Deputy Attorney General Jeffrey A. Rosen, and U.S. Attorney for the District of Columbia Timothy J. Shea had highly unusual involvement in criminal proceedings against associates of President Donald J. Trump. Their involvement conflicts with legal requirements for the DOJ officials to act impartially and to insulate themselves from political influence.

Executive Branch Standards of Conduct and DOJ Policies Require the DOJ Officials to Act Impartially and Insulate Themselves from Political Influence.

Pursuant to 5 C.F.R. § 2635.101 of the Standards of Conduct, the DOJ officials and all executive branch employees "shall act impartially and not give preferential treatment to any private organization or individual."¹ In addition, the officials "shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards."² "Whether particular circumstances

¹ 5 C.F.R. § 2635.101(b)(8).

² 5 C.F.R. § 2635.101(b)(14).

create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.”³

Under Section 1-8.100 of DOJ’s Justice Manual, “the rule of law depends upon the evenhanded administration of justice [and t]he legal judgments of the Department of Justice must be impartial and insulated from political influence.”⁴ The policy emphasizes that it is “imperative” for DOJ’s “investigatory and prosecutorial powers [to] be exercised free from partisan consideration.”⁵ The Justice Manual also requires that sentencing recommendations be based on “an individualized assessment of the facts and circumstances of each case and the history and characteristics of the defendant, without improper consideration of the defendant’s . . . political association, activities, or beliefs.”⁶

Attorney General Barr, Deputy Attorney General Rosen, and U.S. Attorney Shea Intervened in Criminal Proceedings Involving Close Associates of the President.

Recent conduct by Attorney General Barr, Deputy Attorney General Rosen, and U.S. Attorney Shea raises questions about whether they are upholding the required standards demanded of DOJ public servants. Specifically, they appear to have intervened in criminal cases involving close associates of President Donald Trump in a manner consistent with the expected or anticipated wishes of the president. Such intervention jeopardizes the impartial and apolitical administration of justice at DOJ.

On February 10, 2020, four federal line prosecutors filed a sentencing recommendation for Roger Stone, a longtime friend and former campaign adviser to President Trump, after he was convicted of obstructing a congressional investigation, lying to Congress, and witness tampering.⁷ The sentencing recommendation was seven to nine years in prison, which the prosecutors said was compliant with DOJ sentencing guidelines⁸ and commensurate with his “contempt for [the court] and the rule of law.”⁹ U.S. Attorney Shea submitted the sentencing recommendation document.¹⁰

In the early morning of February 11, President Trump publicly criticized the possible nine-year prison term for Stone, tweeting, “This is a horrible and very unfair situation. The real crimes were on the other side, as nothing happens to

³ *Id.*

⁴ Justice Manual § 1-8.100.

⁵ *Id.*

⁶ Justice Manual § 9-27.730.

⁷ Gov’t’s Sentencing Memorandum, *U.S. v. Roger J. Stone, Jr.*, Criminal No. 19-cr-18-ABJ, (D.D.C. Feb. 10, 2020), available at <https://assets.documentcloud.org/documents/6773167/D-C-19-Cr-00018-Dckt-000279-000-Filed-2020-02-10.pdf>.

⁸ *Id.* at 16.

⁹ *Id.* at 26.

¹⁰ *Id.*

them. Cannot allow this miscarriage of justice!”¹¹ President Trump has long made public his support for Stone. In November 2019, President Trump expressed his view that convicting Stone for false statements and obstruction was unfair and a “double standard like never seen before in the history of our Country.”¹² President Trump has also praised Stone’s unwillingness to testify against him.¹³

Later in the morning on February 11, at the direction of Attorney General Barr,¹⁴ DOJ issued a new sentencing memo that overruled the line prosecutors’ earlier recommendation. The new memo stated, “While it remains the position of the United States that a sentence of incarceration is warranted here, the government respectfully submits that the range of 87 to 108 months presented as the applicable advisory Guidelines range would not be appropriate or serve the interests of justice in this case.”¹⁵ U.S. Attorney Shea also submitted the new sentencing recommendation document.¹⁶ Deputy Attorney General Rosen was also involved in the decision to reduce the sentencing recommendation, per reports.¹⁷ The four line prosecutors resigned after the new memo was issued, which is a highly unusual rebuke of Attorney General Barr’s intervention in the sentencing recommendation decision.¹⁸ Stone was ultimately sentenced to 40 months of incarceration, which was less than half the time proposed in the original sentencing memo.¹⁹

On February 14, 2020, it was reported that Attorney General Barr assigned an outside prosecutor to review the case against Michael Flynn, President Trump’s

¹¹ Donald J. Trump (@realDonaldTrump), TWITTER (Feb 11, 2020, 1:48 AM), <https://twitter.com/realDonaldTrump/status/1227122206783811585>.

¹² Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 15, 2019, 12:13 PM), <https://twitter.com/realDonaldTrump/status/1195389486659776512>.

¹³ Donald J. Trump (@realDonaldTrump), TWITTER (Dec. 3, 2018, 10:48 AM), <https://twitter.com/realDonaldTrump/status/1069619316319035392>.

¹⁴ See *Transcript of Attorney General Bill Barr’s exclusive interview with ABC News*, ABC NEWS (Feb. 13, 2020), <https://abcnews.go.com/Politics/transcript-attorney-general-bill-barrs-exclusive-interview-abc/story?id=68975178> (emphasis added); see also Eileen Sullivan & Michael D. Shear, *Trump Praises Barr for Rejecting Punishment Recommended for Stone*, N.Y. TIMES (Feb. 12, 2020), <https://www.nytimes.com/2020/02/12/us/politics/trump-stone.html>.

¹⁵ Gov’t’s Supplemental and Amended Sentencing Memorandum, *U.S. v. Roger J. Stone, Jr.*, Criminal No. 19-cr-18-ABJ, at 1 (D.D.C. Feb. 11, 2020), available at <https://assets.documentcloud.org/documents/6774085/Download-7.pdf>.

¹⁶ *Id.* at 5.

¹⁷ Katie Benner, Sharon LaFraniere & Adam Goldman, *Prosecutors Quit Roger Stone Case After Justice Dept. Intervenes on Sentencing*, N.Y. TIMES (Feb. 11, 2020), <https://www.nytimes.com/2020/02/11/us/politics/roger-stone-sentencing.html>.

¹⁸ See *id.*

¹⁹ Rachel Weiner, Matt Zapotosky, Tom Jackman & Devlin Barrett, *Roger Stone sentenced to three years and four months in prison, as Trump predicts ‘exoneration’ for his friend*, WASH. POST (Feb. 20, 2020), https://www.washingtonpost.com/local/public-safety/roger-stone-sentence-due-thursday-in-federal-court/2020/02/19/2e01bfc8-4c38-11ea-9b5c-eac5b16dafa_story.html.

former national security adviser.²⁰ Flynn pleaded guilty in late 2017 to making false statements to the FBI, but moved to withdraw his guilty plea in January 2020 based on allegations of prosecutorial misconduct. Attorney General Barr assigned a special prosecutor, Jeffrey Jensen, the U.S. Attorney for the Eastern District of Missouri, to review the FBI interview underlying Flynn's guilty plea.²¹ These actions come after line prosecutors allegedly faced pressure from senior DOJ officials to reduce Flynn's sentence from jail time to probation.²² President Trump has publicly questioned the underpinnings of Flynn's false statement charge,²³ and believes that Flynn's treatment was unfair.²⁴

According to the *New York Times*, people familiar with the matter said that Attorney General Barr also "installed a handful of outside prosecutors to broadly review the handling of other politically sensitive national-security cases in the U.S. attorney's office in Washington."²⁵ Attorneys in the office of Deputy Attorney General Rosen are part of the team reviewing these politically sensitive cases.²⁶

The Actions of Attorney General Barr, Deputy Attorney General Rosen, and U.S. Attorney Shea Appear to Violate the Legal Requirements for Impartiality and Insulation from Political Influence.

The three officials' involvement in the Stone and Flynn matters appear to violate both the Executive Branch Standards of Conduct and the DOJ's internal policies.

First, the officials failed to act impartially and failed to avoid even the appearance that they were acting partially, as required by the Standards of Conduct.²⁷ Attorney General Barr and Deputy Attorney General Rosen overruled the guideline-compliant recommendation of line prosecutors, and instead advocated for a reduced sentence for Stone, a friend and ally of the president. Similarly, Barr's insistence on a special review of Flynn's case, and his appointment of his deputy to conduct other politically sensitive reviews, also suggest partial treatment for the

²⁰ See Charlie Savage, Adam Goldman & Matt Apuzzo, *Barr Installs Outside Prosecutor to Review Case Against Michael Flynn, Ex-Trump Adviser*, N.Y. TIMES (Feb. 14, 2020), <https://www.nytimes.com/2020/02/14/us/politics/michael-flynn-prosecutors-barr.html>; Sarah N. Lynch, *Attorney General Barr taps outside prosecutor to review case against ex-Trump adviser Michael Flynn*, REUTERS (Feb. 14, 2020), <https://www.reuters.com/article/us-usa-justice-flynn/attorney-general-barr-taps-outside-prosecutor-to-review-case-against-ex-trump-adviser-michael-flynn-idUSKBN2082I4>.

²¹ Carol E. Lee, *Justice Department opens inquiry into FBI interview at heart of Flynn's guilty plea*, NBC (Feb. 14, 2020), <https://www.nbcnews.com/politics/justice-department/justice-department-opens-inquiry-fbi-interview-heart-flynn-s-guilty-n1136481>.

²² *Id.*

²³ Donald J. Trump (@realDonaldTrump), TWITTER (Dec. 13, 2018 11:07 AM), <https://twitter.com/realDonaldTrump/status/1073248137320509440>.

²⁴ Donald J. Trump (@realDonaldTrump), TWITTER (Apr. 20, 2018 6:34 AM), <https://twitter.com/realdonaldtrump/status/987278269765517312?lang=en>.

²⁵ Savage, Goldman, & Apuzzo, *supra* note 20.

²⁶ *Id.*

²⁷ 5 C.F.R. § 2635.101(b)(8).

president's political allies. President Trump has publicly stated his support for Stone and Flynn²⁸ and it seems likely that the special treatment in these cases resulted from the political relationship between the defendants and President Trump.

The officials' conduct in these cases amounts to giving preferential treatment to a private individual, in violation of the Standards of Conduct. Even on the unlikely assumption that their conduct does not amount to preferential treatment, they still failed to avoid the appearance of partiality by intervening in the administration of justice in politically sensitive cases involving the president's associates.

Second, the officials' conduct failed to insulate the DOJ from political influence, in violation of DOJ principles laid out in the Justice Manual. Instead, Attorney General Barr seems to have improperly intervened in the sentencing phases of two politically sensitive criminal prosecutions due to the defendants' political association with the president. After line prosecutors made a sentencing recommendation for Stone, based on established DOJ guidelines, Attorney General Barr, Deputy Attorney General Rosen, and U.S. Attorney Shea intervened to recommend a lesser sentence.²⁹ Once Flynn withdrew the guilty plea that DOJ career prosecutors secured, citing unfounded prosecutorial misconduct, Attorney General Barr commissioned a special prosecutor to review the underlying charges. The logical inference is that Attorney General Barr and his associates intervened in these cases due to the defendants' political association with President Trump, in violation of the Justice Manual's standards of conduct for DOJ employees.

The violations alleged herein satisfy the essential elements for a professional misconduct finding.³⁰ In order to constitute a professional misconduct finding, (a) the department attorney must have violated a clear and unambiguous legal obligation or professional standard; and (b) the violation was intentional or resulted from the attorney's reckless disregard of the clear and unambiguous legal obligation or standard.³¹

²⁸ See Donald J. Trump (@realDonaldTrump), *supra* notes 12, 13, 23, and 24.

²⁹ Attorney General Barr maintains that he had been planning to reduce the sentence prior to President Trump's tweet, but this appears unlikely based on the chronology of events and an investigation is needed to determine the influence of President Trump's statements about Stone's case on and before February 10, 2020. Nevertheless, a violation also lies in Attorney General Barr's influence over individual sentencing recommendations, which are traditionally dictated by line prosecutors following sentencing guidelines; the guideline range is appropriate in the typical case. See Justice Manual § 9-27.730. Before recommending the original sentence of seven to nine years, the line prosecutors would have performed an individualized assessment of the facts and circumstances of the case to determine whether a deviation from the guideline range was appropriate. See *id.*

³⁰ U.S. DEPT OF JUSTICE. OFF. OF PROF. RESPONSIBILITY, "Attorney Professional Misconduct Matters," <https://www.justice.gov/opr/professional-misconduct> (last visited Feb 19, 2020). The officials' conduct also meets the standard for a "poor judgment" finding. *Id.*

³¹ *Id.*

The Standards of Conduct and the Justice Manual are “unambiguous legal obligations” for employees of the executive branch and DOJ lawyers. Attorney General Barr, Deputy Attorney General Rosen, and U.S. Attorney Shea knew or should have known of these obligations, given their position as top law enforcement officers in the country and some of the most senior officials in the executive branch. And, as discussed above, they seem to have violated these obligations.

Further, their violations appear intentional, or at least to have been committed with reckless disregard for the Standards of Conduct and the Justice Manual. These officials altered the sentencing recommendation for Stone, and Attorney General Barr installed a special prosecutor to review the conduct underlying Flynn’s guilty plea. These cases were politically sensitive and involved close associates of President Trump. Given this context, these officials should have known that the “natural or probable consequences”³² of his conduct were unambiguously prohibited by the Standards of Conduct, which require impartiality in the performance of official duties, and the Justice Manual, which requires sentencing without improper consideration of the defendant’s political association. The violations of the Attorney General, Deputy Attorney General, and US Attorney undermine the independence of the Department of Justice and the integrity of its administration of the criminal justice system.

The facts detailed in this letter warrant an investigation by your offices. Thank you for your consideration.

Sincerely,

_____/s/_____
Kedric L. Payne
General Counsel and Senior Director,
Ethics

_____/s/_____
Delaney N. Marsco
Legal Counsel, Ethics

Cc:
Cynthia K. Shaw
Director
Departmental Ethics Office
U.S. Department of Justice
950 Pennsylvania Avenue N.W.
Washington, DC 20530

³² *Id.*

Washington-Watson, Sheila (OPR)

From: (b) (6)
Sent: Sunday, February 16, 2020 1:04 PM
To: OPR Complaints
Subject: Complaint filed with the DC Disciplinary Counsel re AG William Barr
Attachments: Disciplinary Complaint William Barr Feb 15 2020.pdf

Attached is a complaint I have filed with the DC Disciplinary Counsel regarding the violation by AG Barr of DC Rule of Professional Conduct 3.8(a) based on his showing favoritism for two defendants: Roger Stone and Michael Flynn.

Please deliver a copy to the Attorney General

(b) (6)

(b) (6)



OFFICE OF DISCIPLINARY COUNSEL
THE BOARD ON PROFESSIONAL RESPONSIBILITY
DISTRICT OF COLUMBIA COURT OF APPEALS

515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202) 638-1501 Fax (202) 638-0862
www.dcattorneydiscipline.org

(Please print or type)

Date: February 15, 2020

A. Your Name:(Dr.)

(Mr.)

(Ms.)

(Mrs.)

(b) (6)

(First)

(Initial)

(b) (6)

(Last)

Address:

(b) (6)

(Street)

(Apt. #)

(b) (6)

(City)

(State)

(Zip)

Business Phone:

(b) (6)

Home Phone:

Cell

(b) (6)

Email Address:

(b) (6)

(NOTE: It is very important that we have your telephone number(s) and that you inform our office if you have a change of address.)

B. Attorney Complained Of:

Name: William

P.

Barr

(First)

(Initial)

(Last)

Address: 950 Pennsylvania Avenue, NW

(Street)

(Apt. #)

Washington, DC 20530-0001

(City)

(State)

(Zip)

Telephone No.:

202 841 (b) (6)

Attorney's Bar No., if known:

C. Have you filed a complaint about this matter anywhere else? ☐ Yes ☒ No // If yes, please give details.

D. Do you have a written retainer agreement with the attorney? ☐ Yes ☒ No // If yes, please attach a copy.

E. Where applicable, state the name of the court where the underlying case was filed, and the case name and number.

Unoted States District Court for the District of Columbia U.S. v. Flynn and U.S. v. Stone

F. Do you have other documents that are relevant? ☒ Yes ☐ No // If yes, please give details and provide copies.

News articles regarding special treatment provided by Barr for Roger Stone and Michael Flynn

SEE REVERSE SIDE FOR REQUIRED DETAILS & SIGNATURE

G. DETAILS OF COMPLAINT: Attorney General Barr ordered the U.S. Attorneys handing

the Roger Stone matter to withdraw their sentencing recommendation already filed wiht the Court and substitute

another one with a greatly reduced sentencing recommendation. The trial attorneys all resigned from the case in protest, and one resigned from the DOJ. On orders of Barr other DOJ attorneys entered an appearance and filed a much reduced sentencing recommendation for no apparent reason except favoritism to the defendant. In the case of Michael Flynn, he pleaded guilty and was then cooperating, but recently he sought to withdraw his guilty plea. Barr ordered an investigation of the US Attorneys handling the case thereby showing favoritism to Flynn. AG Barr's conduct in showing favoritism Ofr these two defendants who are close tho president Trump shows favoritism to certain defendants which prosecutors are prohibited from doing under Rule 3.8(a) of the DC Rules of Profesional Conduct.

The Undersigned hereby certifies to the Office of Disciplinary Counsel that the statements in the foregoing Complaint are true and correct to the best of my knowledge.

(b) (6)

Washington-Watson, Sheila (OPR)

From: (b) (6)
Sent: Friday, February 21, 2020 1:12 PM
To: OPR Complaints
Subject: Complaint: Barr, Rosen, and Shea Unlawfully Interfered in Criminal Cases Involving Associates of President Trump

Jeffrey Raggsdale, Acting Director
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave, NW, Suite 3266
Washington, DC 20530-0001
Phone: 202-514-3365
Fax: 202-514-5050
Email: opr.complaints@usdoj.gov

Re: Complaint: Barr, Rosen, and Shea Unlawfully Interfered in Criminal Cases Involving Associates of President Trump

Dear Director:

Today, Campaign Legal Center (CLC), called for an investigation of Attorney General Bill Barr, Deputy Attorney General Jeffrey Rosen, and U.S. Attorney for the District of Columbia Timothy Shea for their highly unusual involvement in criminal proceedings against associates of President Donald Trump. The complaint states their intervention in matters involving Roger Stone and Michael Flynn conflicts with legal requirements for the Department of Justice officials to act impartially and insulate themselves from political influence. The complaint outlines unlawful activity under both the Executive Branch Standards of Conduct and the DOJ's internal policies.

The public must know that the deterioration of impartiality at DOJ expands beyond Attorney General Barr and includes senior leadership. The actions of the Attorney General, Deputy Attorney General and U.S. Attorney undermine DOJ's independence and the integrity of its administration of the criminal justice system. We must have confidence that the criminal justice system does not offer special treatment if you are an associate of the President. Even the appearance of politically influenced law enforcement erodes the public's trust in government. A thorough investigation of this complaint will help restore the public's confidence that DOJ upholds its standards of insulating decisions from political influence.

Yours sincerely,

(b) (6)

cc:
Representative Steny Hoyer
House Majority Leader
Legislative Correspondence Team
1705 Longworth House Office Building
Washington DC 20515
Office: (202) 225-4131
Fax: (202) 225-4300
<https://www.majorityleader.gov/content/email-whip>

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Re: Legal document:

<https://campaignlegal.org/sites/default/files/2020-02/CLC%20Complaint%20to%20DOJ%20OPR%20-%2021-20.pdf>

>
> OPR has received your referral.
>
> Thank you.
>
> Jeff Ragsdale
> Office of Professional Responsibility

> -----Original Message-----
> From: (b) (6)
> Sent: Friday, March 6, 2020 12:40 PM
> To: Ragsdale, Jeffrey (OPR) <Jeffrey.Ragsdale@opr.usdoj.gov>
> Subject: OPR Referral - AG Barr

> Jeff,

> In case something more formal than my prior email is required, I am referring this opinion from Judge Reggie Walton to OPR for an inquiry/investigation of AG Barr.

> As we know, anytime a federal judicial opinion contains criticism of the ethics of something a federal prosecutor does or fails to do in connection with representing the American people, OPR reviews the matter/opens an inquiry into the matter. Never has that responsibility been nor vital then when a judge criticizes the conduct/truthfulness of the Attorney General of the United States.

> Please let me know that you received this referral. Thanks.

> (b) (6)

> <https://protect2.fireeye.com/v1/url?k=1f8d5e32-43e1b7f2-1f8a7ad7-0cc47adca7dc-563cb0240e59da24&q=1&e=05dcb66d-2c67-4b42-bfda-5b45c8b2028e&u=https%3A%2F%2Fdrive.google.com%2Ffile%2F%2F1PHfUd0BqceqxEPUxGN9n2dkFy9LTBwj%2Fview>>

> Sent from my iPhone

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELECTRONIC PRIVACY INFORMATION
CENTER,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE,

Defendant.

Civil Action No. 19-810 (RBW)

JASON LEOPOLD &
BUZZFEED, INC.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
JUSTICE, et al.,

Defendants.

Civil Action No. 19-957 (RBW)

MEMORANDUM OPINION

The above-captioned matters concern requests made by the Electronic Privacy Information Center (“EPIC”) and Jason Leopold and BuzzFeed, Inc. (the “Leopold plaintiffs”) (collectively, the “plaintiffs”) to the United States Department of Justice (the “Department”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 (2018), seeking, inter alia, the release of an unredacted version of the report prepared by Special Counsel Robert S. Mueller III (“Special Counsel Mueller”) regarding his investigation into Russian interference in the 2016 United States presidential election (the “Mueller Report”). See Complaint ¶¶ 2, 43, Elec.

Privacy Info. Ctr. v. U.S. Dep't of Justice, Civ. Action No. 19-810 (“EPIC Compl.”); Complaint

¶ 1, Leopold v. U.S. Dep't of Justice, Civ. Action No. 19-957 (“Leopold Pls.’ Compl.”).

Currently pending before the Court are (1) the Department of Justice’s Motion for Summary Judgment in Leopold v. Department of Justice and Partial Summary Judgment in Electronic Privacy Information Center v. Department of Justice (“Def.’s Mot.” or the “Department’s motion”); (2) the Plaintiff’s Combined Opposition to Defendant’s Motion for Partial Summary Judgment, Cross-Motion for Partial Summary Judgment, and Motion for In Camera Review of the “Mueller Report” (“EPIC’s Mot.” or “EPIC’s motion”); and (3) Plaintiffs Jason Leopold’s and BuzzFeed Inc.’s Motion for Summary Judgment (“Leopold Pls.’ Mot.” or the “Leopold plaintiffs’ motion”). Upon careful consideration of the parties’ submissions,¹ the Court concludes for the following reasons that it must deny without prejudice the Department’s motion, grant in part and deny without prejudice in part EPIC’s motion, and grant in part and deny without prejudice in part the Leopold plaintiffs’ motion.

I. BACKGROUND

A. Factual Background

On May 17, 2017, “to ensure a full and thorough investigation of the Russian government’s efforts to interfere in the 2016 presidential election,” then-Acting Attorney

¹ In addition to the filings already identified, the Court considered the following submissions in rendering its decision: (1) the Memorandum of Points and Authorities in Support of the Department of Justice’s Motion for Summary Judgment in Leopold v. Department of Justice and Partial Summary Judgment in Electronic Privacy Information Center v. Department of Justice (“Def.’s Mem.”); (2) the Declaration of Vanessa R. Brinkmann (“Brinkmann Decl.”); (3) the Memorandum of Points and Authorities in Support of Plaintiff’s Combined Opposition and Cross-Motion for Partial Summary Judgment and Motion for In Camera Review of the “Mueller Report” (“EPIC’s Mem.”); (4) Plaintiffs Jason Leopold’s and BuzzFeed Inc.’s Combined Memorandum in Support of Their Motion for Summary Judgment and in Opposition to Defendants’ Motion for Summary Judgment (“Leopold Pls.’ Mem.”); (5) the Brief of Citizens for Responsibility and Ethics in Washington as Amicus Curiae in Support of Plaintiffs’ Motions for Summary Judgment (“CREW Br.”); (6) the Department of Justice’s Reply in Support of its Motion for Summary Judgment with Respect to the “Mueller Report” and Opposition to the Plaintiffs’ Cross-Motions for Summary Judgment (“Def.’s Reply”); and (7) the Plaintiffs’ Consolidated Reply in Support of Their Cross-Motions for Summary Judgment and Motions for In Camera Review of the “Mueller Report” (“Pls.’ Reply”).

General Rod J. Rosenstein appointed Special Counsel Mueller to investigate “any links and/or coordination between the Russian government and individuals associated with the campaign of President Donald Trump” (the “Trump campaign”). Def.’s Mot., Exhibit (“Ex.”) 3 (Order No. 3915-2017 – Appointment of Special Counsel to Investigate Russian Interference with the 2016 Presidential Election and Related Matters (“Appointment Order”)).

In March 2019, Special Counsel Mueller concluded his investigation into Russian interference in the 2016 United States presidential election, and on Friday, March 22, 2019, he provided Attorney General William P. Barr (“Attorney General Barr”) with the Mueller Report. See Def.’s Mot., Ex. 4 (Letter from William P. Barr, Attorney General, to Lindsey Graham, Chairman, Committee on the Judiciary, United States Senate, et al. (Mar. 22, 2019) (“March 22, 2019 Letter”)). On that same day, Attorney General Barr advised members of the United States Congress by letter that he was “reviewing the [Mueller] [R]eport and anticipate[d] that [he] may be in a position to advise [the members of Congress] of [] Special Counsel[] [Mueller’s] principal conclusions as soon as th[at] weekend.” Id., Ex. 4 (March 22, 2019 Letter). Attorney General Barr “disclose[d] [the March 22, 2019] letter to the public after delivering it to [members of Congress].” Id., Ex. 4 (March 22, 2019 Letter).

On Sunday, March 24, 2019, Attorney General Barr supplemented his March 22, 2019 letter to Congress, “advise[ing] [certain members of Congress] of the principal conclusions reached by Special Counsel [Mueller].” Id., Ex. 5 (Letter from William P. Barr, Attorney General, to Lindsey Graham, Chairman, Committee on the Judiciary, United States Senate, et al. (Mar. 24, 2019) (“March 24, 2019 Letter”)) at 1. However, neither an unredacted or a redacted version of the Mueller Report accompanied Attorney General Barr’s March 24, 2019 letter for congressional or public consumption. According to Attorney General Barr, “Special Counsel[]

[Mueller's] investigation did not find that the Trump campaign or anyone associated with it conspired or coordinated with Russia in its efforts to influence the 2016 [United States] presidential election." *Id.*, Ex. 5 (March 24, 2019 Letter) at 2; see also *id.*, Ex. 5 (March 24, 2019 Letter) at 2 ("As noted above, [] Special Counsel [Mueller] did not find that any [United States] person or Trump campaign official or associate conspired or knowingly coordinated with the [Internet Research Agency] in its efforts[.]"); *id.*, Ex. 5 (March 24, 2019 Letter) at 2 ("But as noted above, [] Special Counsel [Mueller] did not find that the Trump campaign, or anyone associated with it, conspired or coordinated with the Russian government in these efforts, despite multiple offers from Russian-affiliated individuals to assist the Trump campaign.").

Furthermore, Attorney General Barr represented that, with respect to Special Counsel Mueller's investigation into whether President Trump obstructed justice in connection with Special Counsel Mueller's investigation into Russia's interference in the 2016 presidential election, Special Counsel Mueller "determined not to make a traditional prosecutorial judgment" and "did not draw a conclusion—one way or the other—as to whether the examined conduct constituted obstruction," thereby leaving "it to [] Attorney General [Barr] to determine whether the conduct described in the [Mueller] [R]eport constitutes a crime." *Id.*, Ex. 5 (March 24, 2019 Letter) at 3.

Noting that Special Counsel Mueller "recognized that 'the evidence does not establish that [] President [Trump] was involved in an underlying crime related to Russian election interference,'" Attorney General Barr ultimately determined that "the evidence developed during [] Special Counsel[] [Mueller's] investigation is not sufficient to establish that [] President [Trump] committed an obstruction-of-justice offense," and that, "while not determinative, the absence of such evidence bears upon [] President[] [Trump's] intent with respect to obstruction." *Id.*, Ex. 5 (March 24, 2019 Letter) at 3. According to Attorney General Barr, "the

[Mueller] [R]eport identifies no actions that, in [his] judgment, constitute obstructive conduct, had a nexus to a pending or contemplated proceeding, and were done with corrupt intent[.]” Id., Ex. 5 (March 24, 2019 Letter) at 3.

Attorney General Barr also indicated in his March 24, 2019 letter that he intended to “move forward expeditiously in determining what [information in the Mueller Report] can be released in light of applicable law, regulations, and Departmental policies.” Id., Ex. 5 (March 24, 2019 Letter) at 4.

On March 27, 2019, Special Counsel Mueller stated in a letter to Attorney General Barr that the representations made by Attorney General Barr in his March 24, 2019 letter “did not fully capture the context, nature, and substance of th[e] [Special Counsel’s] Office’s work and conclusions.” EPIC’s Mot., Ex. 4 (Letter from Robert S. Mueller III, Special Counsel, to William P. Barr, Attorney General (Mar. 27, 2019) (“March 27, 2019 Letter”)) at 1. And, according to Special Counsel Mueller, as a result of Attorney General Barr’s March 24, 2019 letter, “[t]here [was] now public confusion about critical aspects of the results of [his] investigation,” which Special Counsel Mueller noted “threaten[ed] to undermine a central purpose for which the Department appointed [] Special Counsel [Mueller]: to assure full public confidence in the outcome of the investigations.” Id., Ex. 4 (March 27, 2019 Letter) at 1.

On March 29, 2019, Attorney General Barr, in a letter addressed to members of Congress, represented that “some media reports and other public statements mischaracter[ed] [his] March 24, 2019 [letter] [] as a ‘summary’ of [] Special Counsel[] [Mueller’s] investigation and [the Mueller] [R]eport,” and that his “March 24[, 2019] letter was not, and did not purport to be, an exhaustive recounting of [] Special Counsel[] [Mueller’s] investigation or [the Mueller] [R]eport.” Def.’s Mot., Ex. 6 (Letter from William P. Barr, Attorney General, to Lindsey

Graham, Chairman, Committee on the Judiciary, United States Senate, et al. (Mar. 29, 2019)

(“March 29, 2019 Letter”)) at 1–2. Attorney General Barr stated:

As my [March 24, 2019] letter made clear, my notification to Congress and the public provided, pending release of the [Mueller] [R]eport, a summary of its “principal conclusions”—that is, its bottom line. . . . Everyone will soon be able to read it on their own. I do not believe it would be in the public’s interest for me to attempt to summarize the full report or to release it in serial or piecemeal fashion.

Id., Ex. 6 (March 29, 2019 Letter) at 2.

On April 18, 2019, prior to making the redacted version of the Mueller Report available to Congress, the public, or the media, Attorney General Barr held a press conference during which he “offer[ed] a few comments [] on the [Mueller] [R]eport.” Attorney General William P. Barr Delivers Remarks on the Release of the Report on the Investigation into Russian Interference in the 2016 Presidential Election, U.S. Dep’t of Justice, <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-release-report-investigation-russian> (last visited Mar. 5, 2020).² Attorney General Barr stated during the press conference that the Mueller Report indicates that Special Counsel Mueller’s “investigation did not establish that members of the Trump [c]ampaign conspired or coordinated with the Russian government in its election interference activities.” Id.; see also id. (“[T]hanks to [] Special Counsel[] [Mueller’s] thorough investigation, we now know that the Russian operatives who perpetrated these schemes did not have the cooperation of President Trump or the Trump campaign—or the knowing assistance of any other Americans for that matter.”); id. (“Special Counsel [Mueller] found no evidence that any Americans—including anyone associated with the

² The Court takes judicial notice of information posted on the Department’s official public website. See Pharm. Research & Mfrs. of Am. v. U.S. Dep’t of Health & Human Servs., 43 F. Supp. 3d 28, 33 (D.D.C. 2014) (“Courts in this jurisdiction have frequently taken judicial notice of information posted on official public websites of government agencies.”); see also Fed. R. Evid. 201(d) (providing that a “court may take judicial notice at any stage of the proceeding”).

Trump campaign—conspired or coordinated with the Russian government . . . in carrying out this illegal scheme.”); id. (Attorney General Barr stating that “Special Counsel [Mueller] found no ‘collusion’ by any Americans in the [Russian government’s] illegal activity.”); id. (“But again, [] Special Counsel[] [Mueller] did not find any evidence that members of the Trump campaign or anyone associated with the campaign conspired or coordinated with the Russian government in its hacking operations. In other words, there was no evidence of Trump campaign ‘collusion’ with the Russian government’s hacking.”). Attorney General Barr further stated that Special Counsel Mueller “did not find that any person associated with the Trump campaign illegally participated in the dissemination of the [stolen] materials [on Wikileaks],” and “did not find any conspiracy to violate [United States] law involving Russia-linked persons and any persons associated with the Trump campaign.” Id. According to Attorney General Barr, the “bottom line” is that “[a]fter nearly two years of investigation, thousands of subpoenas, and hundreds of warrants and witness interviews, [] Special Counsel [Mueller] confirmed that the Russian government sponsored efforts to illegally interfere with the 2016 presidential election but did not find that the Trump campaign or other Americans colluded in those schemes.” Id. Finally, Attorney General Barr announced that he and then-Deputy Attorney General Rod J. Rosenstein “concluded that the evidence developed by [] Special Counsel [Mueller] is not sufficient to establish that [] President [Trump] committed an obstruction-of-justice offense.” Id.; see also id. (“Although the Deputy Attorney General and I disagreed with some of [] Special Counsel[] [Mueller’s] legal theories and felt that some of the episodes examined did not amount to obstruction as a matter of law, we did not rely solely on that in making our decision. Instead, we accepted [] Special Counsel[] [Mueller’s] legal framework for purposes of our analysis and

evaluated the evidence as presented by [] Special Counsel [Mueller] in reaching our conclusion.”). Attorney General Barr declared that

[i]n assessing the President[] [Trump’s] actions discussed in the [Mueller] [R]eport, it is important to bear in mind the context. President Trump faced an unprecedented situation. As he entered into office, and sought to perform his responsibilities as [p]resident, federal agents and prosecutors were scrutinizing his conduct before and after taking office, and the conduct of some of his associates. At the same time, there was relentless speculation in the news media about the President[] [Trump’s] personal culpability. Yet, as he said from the beginning, there was in fact no collusion. And as the [Mueller] [R]eport acknowledges, there is substantial evidence to show that [] President [Trump] was frustrated and angered by a sincere belief that the investigation was undermining his presidency, propelled by his political opponents, and fueled by illegal leaks. Nonetheless, the White House fully cooperated with [] Special Counsel[] [Mueller’s] investigation, providing unfettered access to campaign and White House documents, directing senior aides to testify freely, and asserting no privilege claims. And at the same time, [] President [Trump] took no act that in fact deprived [] Special Counsel [Mueller] of the documents and witnesses necessary to complete his investigation. Apart from whether the acts were obstructive, this evidence of non-corrupt motives weighs heavily against any allegation that [] President [Trump] had a corrupt intent to obstruct the investigation.

Id.

That same day, Attorney General Barr also released a letter to members of Congress purporting to summarize the Mueller Report. See generally Def.’s Mot., Ex. 7 (Letter from William P. Barr, Attorney General, to Lindsey Graham, Chairman, Committee on the Judiciary, United States Senate, et al. (Apr. 18, 2019) (“April 18, 2019 Letter”)). In that letter, Attorney General Barr represented that Special Counsel Mueller’s “bottom-line conclusion on the question of so-called ‘collusion’ [was] [that] [t]he investigation did not establish that members of the Trump [c]ampaign conspired or coordinated with the Russian government in its election interference activities,” *id.*, Ex. 7 (April 18, 2019 Letter) at 1; see also *id.*, Ex. 7 (April 18, 2019 Letter) at 1 (stating that Special Counsel Mueller “concluded that [t]he investigation did not identify evidence that any [United States] persons conspired or coordinated with the [Internet

Research Agency]” (first alteration in original) (internal quotation marks omitted)); id., Ex. 7 (April 18, 2019 Letter) at 2 (representing that Special Counsel Mueller “did not find that President Trump, his campaign, or its associates conspired or coordinated with the Russian government in its hacking activities”); id., Ex. 7 (April 18, 2019 Letter) at 2 (“Special Counsel [Mueller] did not find that any person associated with the Trump campaign, or any other [United States] citizen, illegally participated in the dissemination of hacked information.”); id., Ex. 7 (April 18, 2019 Letter) at 2 (“Special Counsel [Mueller] did not find any conspiracy to violate [United States] law involving Russia-linked persons and any persons associated with the Trump campaign.”), and that, in light of Special Counsel Mueller’s “decision not to reach a conclusion on [whether President Trump] obstruct[ed] [justice],” “the evidence set forth in the [] [Mueller] [R]eport was [not] sufficient to establish that [] President [Trump] committed an obstruction-of-justice offense,” id., Ex. 7 (April 18, 2019 Letter) at 2–3.

Attorney General Barr, in his April 18, 2019 letter, indicated that the Mueller Report would “be released to the public and to Congress to the maximum extent possible, subject only to those redactions required by law or by compelling law enforcement, national security, or personal privacy interests.” Id., Ex. 7 (April 18, 2019 Letter) at 3. According to Attorney General Barr, “most of the redactions were required to protect grand-jury secrecy or to comply with judicial orders (i) protecting from public release sensitive discovery information or (ii) prohibiting public disclosure of information bearing upon ongoing investigations and criminal proceedings[.]” Id., Ex. 7 (April 18, 2019 Letter) at 3. Specifically, Attorney General Barr represented the following as the reasons for withholding the redacted information:

(1) grand-jury information . . . , the disclosure of which is prohibited by Federal Rule of Criminal Procedure 6(e); (2) investigative techniques . . . , which reflect material identified by the intelligence and law enforcement communities as potentially compromising sensitive sources, methods, or techniques, as well as

information that could harm ongoing intelligence or law enforcement activities; (3) information that, if released, could harm ongoing law enforcement matters . . . , including charged cases where court rules and orders bar public disclosure by the parties of case information; and (4) information that would unduly infringe upon the personal privacy and reputational interests of peripheral third parties . . . , which includes deliberation about decisions not to recommend prosecution of such parties.

Id., Ex. 7 (April 18, 2019 Letter) at 3.

A redacted version of the Mueller Report was made available to the public later that same day. According to the redacted version of the Mueller Report, Special Counsel Mueller “identified multiple contacts—‘links,’ in the words of the Appointment Order—between Trump [c]ampaign officials and individuals with ties to the Russian government.” Def.’s Mot., Ex. D (Report on the Investigation Into Russian Interference in the 2016 Presidential Election – Volume I of II (“Mueller Report – Volume I”)) at 66. However, because coordination—the term that appears in the Appointment Order—“does not have a settled definition in federal criminal law,” Special Counsel Mueller, “[i]n evaluating whether evidence about collective action of multiple individuals constituted a crime, [] applied the framework of conspiracy law,” understanding “coordination to require an agreement—tacit or express—between the Trump [c]ampaign and the Russian government on election interference,” which “requires more than the two parties taking actions that were informed by or responsive to the other’s actions or interests,” id., Ex. D (Mueller Report – Volume I) at 2, and concluded that the investigation did not establish that “these contacts involved or resulted in coordination or a conspiracy with the Trump [c]ampaign and Russia, including with respect to Russia providing assistance to the [Trump] [c]ampaign in exchange for any sort of favorable treatment in the future,” id., Ex. D (Mueller Report – Volume I) at 66. Section IV of Volume I of the Mueller Report “describes the principal links between the Trump [c]ampaign and individuals with ties to the Russian government,

including some contacts with [Trump] [c]ampaign officials or associates that have been publicly reported to involve Russian contacts.” Id., Ex. D (Mueller Report – Volume I) at 66. See generally id., Ex. D (Mueller Report – Volume I) at 66–173.

With respect to Special Counsel Mueller’s investigation into whether President Trump obstructed justice, Special Counsel Mueller accepted the Department’s Office of Legal Counsel’s legal conclusion “that the indictment or criminal prosecution of a sitting [p]resident would impermissibly undermine the capacity of the executive branch to perform its constitutionally assigned functions’ in violation of the constitutional separation of powers” for the purpose of exercising prosecutorial jurisdiction and “determined not to make a traditional prosecutorial judgment[,] . . . recogniz[ing] that a federal criminal accusation against a sitting [p]resident would place burdens on the [p]resident’s capacity to govern and potentially preempt constitutional processes for addressing presidential misconduct.” Id., Ex. D (Report on the Investigation Into Russian Interference in the 2016 Presidential Election – Volume II of II (“Mueller Report – Volume II”) at 1 (internal quotation marks omitted). Therefore, Special Counsel Mueller “determined not to apply an approach that could potentially result in a judgment that [] President [Trump] committed crimes” because “[f]airness concerns counseled against potentially reaching that judgment when no charges can be brought.” Id., Ex. D (Mueller Report – Volume II) at 2. Nevertheless, in light of the fact that “a [p]resident does not have immunity after he leaves office,” Special Counsel Mueller “conducted a thorough factual investigation in order to preserve the evidence when memories were fresh and documentary materials were available.” Id., Ex. D (Mueller Report – Volume II) at 1–2. Special Counsel Mueller ultimately represented that

if [he] had confidence after a thorough investigation of the facts that [] President [Trump] clearly did not commit obstruction of justice, [he] would so state. Based

on the facts and the applicable legal standards, however, [he] [is] unable to reach that judgment. The evidence [he] obtained about [] President[] [Trump's] actions and intent presents difficult issues that prevent [him] from conclusively determining that no criminal conduct occurred. Accordingly, while th[e] [Mueller] [R]eport does not conclude that [] President [Trump] committed a crime, it also does not exonerate him.

Id., Ex. D (Mueller Report – Volume II) at 2; see also id., Ex. D (Mueller Report – Volume II) at 8 (“Because [Special Counsel Mueller] determined not to make a traditional prosecutorial judgment, [he] did not draw ultimate conclusions about [] President[] [Trump's] conduct. The evidence [he] obtained about [] President[] [Trump's] actions and intent presents difficult issues that would need to be resolved if [he] were making a traditional prosecutorial judgment. At the same time, if [he] had confidence after a thorough investigation of the facts that [] President [Trump] clearly did not commit obstruction of justice, [he] would so state. Based on the facts and the applicable legal standards, however, [he] [is] unable to reach that judgment. Accordingly, while th[e] [Mueller] [R]eport does not conclude that [] President[] [Trump] committed a crime, it also does not exonerate him.”). Section II of Volume II of the Mueller Report details the evidence obtained during Special Counsel Mueller's investigation. See generally id., Ex. D (Mueller Report – Volume II) at 15–158.

B. Procedural Background

On November 5, 2018, EPIC requested, inter alia, a copy of the unredacted version of Mueller Report from the Department pursuant to the FOIA. See EPIC Compl. ¶¶ 2, 43; see also id., Ex. 2 (Letter from John Davisson, EPIC Counsel, et al., to Douglas Hibbard, Chief, Initial Request Staff, Office of Information Policy (Nov. 5, 2018)) at 1–3. According to EPIC, the Department “den[ied] EPIC’s request for expedited processing” and “fail[ed] to make a determination regarding EPIC’s FOIA request within the applicable time limits. Id. ¶¶ 55, 60. EPIC then filed its Complaint in this Court. See generally id.

On March 21, 2019, the Leopold plaintiffs also sought a copy of the unredacted version of the Mueller Report from the Department, the Office of Attorney General of the United States, the Deputy Attorney General of the United States, and the Special Counsel's Office pursuant to the FOIA. See Leopold Pls.' Compl. ¶¶ 1, 6; see also id., Ex. A (FOIA Request by Jason Leopold) at 1–3. Although the Department granted the Leopold plaintiffs' request for expedited processing, it failed to produce the unredacted version of the Mueller Report within the applicable deadline. See id. ¶¶ 8, 16. Therefore, on April 4, 2019, the Leopold plaintiffs filed their Complaint in this Court. See generally id.

On April 22, 2019, the Court consolidated the above-captioned matters as to the plaintiffs' demands for the release of the unredacted version of the Mueller Report. See Order at 2 (Apr. 22, 2019), ECF No. 33. Thereafter, the parties filed their cross-motions for summary judgment. In their respective motions for summary judgment, EPIC and the Leopold plaintiffs request that the Court conduct an in camera review of the unredacted version of the Mueller Report. These requests are the subjects of this Memorandum Opinion.

II. STANDARD OF REVIEW

"[The] FOIA requires federal agencies to disclose, upon request, broad classes of agency records unless the records are covered by the statute's exemptions." Students Against Genocide v. U.S. Dep't of State, 257 F.3d 828, 833 (D.C. Cir. 2001) (citation omitted). In a FOIA action, the defendant agency has "[the] burden of demonstrating that the withheld documents are exempt from disclosure," Boyd v. U.S. Dep't of Justice, 475 F.3d 381, 385 (D.C. Cir. 2007), and the district court must "determine the matter de novo," 5 U.S.C. § 552(a)(4)(B); see also U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press, 489 U.S. 749, 755 (1989) ("[T]he FOIA expressly places the burden 'on the agency to sustain its action' and directs the district courts to

‘determine the matter de novo.’”). To determine de novo the applicability of the particular exemptions cited by the government to the withheld documents, the Court has the discretion to “examine the contents of [] agency records in camera.” 5 U.S.C. § 552(a)(4)(B); see Larson v. U.S. Dep’t of State, 565 F.3d 857, 869–70 (D.C. Cir. 2009) (“In camera review is available to the district court if the court believes it is needed ‘to make a responsible de novo determination on the claims of exception.’” (quoting Juarez v. U.S. Dep’t of Justice, 518 F.3d 54, 60 (D.C. Cir. 2008))).

The District of Columbia Circuit has specifically noted that

in camera inspection may be particularly appropriate when either the agency affidavits are insufficiently detailed to permit meaningful review of exemption claims or there is evidence of bad faith on the part of the agency, when the number of withheld documents is relatively small, and when the dispute turns on the contents of the withheld documents, and not the parties’ interpretations of those documents. . . . These factors identify circumstances under which it would be error for the district court not to review the documents in camera, but they do not present the only circumstances under which the district court may do so. As the court explained in Ray v. Turner, 587 F.2d 1187 (D.C. Cir. 1978) (per curiam), [i]n in camera inspection does not depend on a finding or even tentative finding of bad faith. A judge has discretion to order in camera inspection on the basis of an uneasiness, on a doubt that he wants satisfied before he takes responsibility for a de novo determination. . . . The ultimate criterion is simply this: Whether the district judge believes that in camera inspection is needed in order to make a responsible de novo determination on the claims of exemption. Thus, in cases in which a look at the withheld material itself would be useful, we have fully approved in camera examination of the withheld material by the trial court.

Spirko v. U.S. Postal Serv., 147 F.3d 992, 996 (D.C. Cir. 1998) (second alteration in original) (internal quotation marks omitted). But see Carter v. U.S. Dep’t of Commerce, 830 F.2d 388, 393 (D.C. Cir. 1987) (“[T]he mere allegation of bad faith does not undermine the sufficiency of agency submissions. There must be tangible evidence of bad faith; without it[,] the court should not question the veracity of agency submissions.”); Hayden v. Nat’l Sec. Agency, 608 F.2d 1381, 1387 (D.C. Cir. 1979) (“The sufficiency of the affidavits is not undermined by a mere allegation

of agency misrepresentation or bad faith, nor by past agency misconduct in other unrelated cases.”). However, the Circuit has cautioned that district courts “should not resort to [in camera review] routinely on the theory that ‘it can’t hurt.’” Ray, 587 F.2d at 1195; see Juarez, 518 F.3d at 59–60 (“It is true that [the] FOIA provides district courts the option to conduct in camera review, but it by no means compels the exercise of that option.” (citations omitted)). Instead, in camera review “is more appropriate in only the exceptional case.” Elec. Privacy Info. Ctr. v. U.S. Dep’t of Homeland Sec., 384 F. Supp. 2d 100, 119–20 (D.D.C. 2005) (citing Nat’l Labor Relations Bd. v. Robbins Tire & Rubber Co., 437 U.S. 214, 224 (1978) and PHE, Inc. v. U.S. Dep’t of Justice, 983 F.2d 248, 252–53 (D.C. Cir. 1993)).

III. ANALYSIS

The Court has grave concerns about the objectivity of the process that preceded the public release of the redacted version of the Mueller Report and its impacts on the Department’s subsequent justifications that its redactions of the Mueller Report are authorized by the FOIA. For the reasons set forth below, the Court shares the plaintiffs’ concern that the Department “dubious[ly] handl[ed] [] the public release of the Mueller Report.” EPIC’s Mem. at 40; see also id. (“Attorney General[] [Barr’s] attempts to spin the findings and conclusions of the [Mueller] Report have been challenged publicly by the author of the [Mueller] Report. [] Attorney[] General[] [Barr’s] characterization of the [Mueller] [R]eport has also been contradicted directly by the content of the [Mueller] Report.”); Leopold Pls.’ Mem. at 9 (“[T]here have been serious and specific accusations by other government officials about improprieties in the [Department’s] handling and characterization of the [Mueller] Report[.]”). Accordingly, the Court concludes that it must conduct an in camera review of the unredacted version of the Mueller Report to assess de novo the applicability of the particular exemptions

claimed by the Department for withholding information in the Mueller Report pursuant to the FOIA.

On March 24, 2019, only two days after receiving the 381-page Mueller Report, Attorney General Barr represented that he was providing “a summary of [the Mueller Report’s] ‘principal conclusions.’” Def.’s Mot., Ex. 6 (March 29, 2019 Letter) at 2. In his March 24, 2019 letter, Attorney General Barr stated that “Special Counsel[] [Mueller’s] investigation did not find that the Trump campaign or anyone associated with it conspired or coordinated with Russia in its efforts to influence the 2016 [United States] presidential election,” *id.*, Ex. 5 (March 24, 2019 Letter) at 2, and that, with respect to Special Counsel Mueller’s investigation into whether President Trump obstructed justice in connection with Special Counsel Mueller’s investigation into Russia’s interference in the 2016 presidential election, Special Counsel Mueller “recognized that ‘the evidence does not establish that [] President [Trump] was involved in an underlying crime related to Russian election interference.’” *id.*, Ex. 5 (March 24, 2019 Letter) at 3. However, Special Counsel Mueller himself took exception to Attorney General Barr’s March 24, 2019 letter, stating that Attorney General Barr “did not fully capture the context, nature, and substance of th[e] [Special Counsel’s] Office’s work and conclusions,” EPIC’s Mot., Ex. 4 (March 27, 2019 Letter) at 1, and a review of the redacted version of the Mueller Report by the Court results in the Court’s concurrence with Special Counsel Mueller’s assessment that Attorney General Barr distorted the findings in the Mueller Report. Specifically, Attorney General Barr’s summary failed to indicate that Special Counsel Mueller “identified multiple contacts—‘links,’ in the words of the Appointment Order—between Trump [c]ampaign officials and individuals with ties to the Russian government.” Def.’s Mot., Ex. D (Mueller Report – Volume I) at 66, and that Special Counsel Mueller only concluded that the investigation did not

establish that “these contacts involved or resulted in coordination or a conspiracy with the Trump [c]ampaign and Russia, including with respect to Russia providing assistance to the [Trump] [c]ampaign in exchange for any sort of favorable treatment in the future,” because coordination—the term that appears in the Appointment Order—“does not have a settled definition in federal criminal law,” *id.*, Ex. D (Mueller Report – Volume I) at 2, 66. Attorney General Barr also failed to disclose to the American public that, with respect to Special Counsel Mueller’s investigation into whether President Trump obstructed justice, Special Counsel Mueller “determined not to make a traditional prosecutorial judgment[,] . . . recogniz[ing] that a federal criminal accusation against a sitting [p]resident would place burdens on the [p]resident’s capacity to govern and potentially preempt constitutional processes for addressing presidential misconduct,” but nevertheless declared that

if [he] had confidence after a thorough investigation of the facts that [] President [Trump] clearly did not commit obstruction of justice, [he] would so state. Based on the facts and the applicable legal standards, however, [he] [is] unable to reach that judgment. The evidence [he] obtained about [] President[] [Trump’s] actions and intent presents difficult issues that prevent [him] from conclusively determining that no criminal conduct occurred. Accordingly, while th[e] [Mueller] [R]eport does not conclude that [] President [Trump] committed a crime, it also does not exonerate him.

Id., Ex. D (Mueller Report – Volume II) at 1–2.

Although Attorney General Barr can be commended for his effort to expeditiously release a summary of Special Counsel Mueller’s principal conclusions in the public interest, the Court is troubled by his hurried release of his March 24, 2019 letter well in advance of when the redacted version of the Mueller Report was ultimately made available to the public. The speed by which Attorney General Barr released to the public the summary of Special Counsel Mueller’s principal conclusions, coupled with the fact that Attorney General Barr failed to provide a thorough representation of the findings set forth in the Mueller Report, causes the Court to question

whether Attorney General Barr's intent was to create a one-sided narrative about the Mueller Report—a narrative that is clearly in some respects substantively at odds with the redacted version of the Mueller Report.

Attorney General Barr's decision to not only conduct a press conference but also issue his April 18, 2019 letter immediately prior to releasing the redacted version of the Mueller Report to the public on April 18, 2019, also causes the Court concern. During his press conference, Attorney General Barr maintained that Special Counsel Mueller's "investigation did not establish that members of the Trump [c]ampaign conspired or coordinated with the Russian government in its election interference activities," and that "President [Trump] took no act that in fact deprived [] Special Counsel [Mueller] of the documents and witnesses necessary to complete his investigation," and declared that

[i]n assessing [] President [Trump's] actions discussed in the [Mueller] [R]eport, it is important to bear in mind the context. President Trump faced an unprecedented situation. As he entered into office, and sought to perform his responsibilities as [p]resident, federal agents and prosecutors were scrutinizing his conduct before and after taking office, and the conduct of some of his associates. At the same time, there was relentless speculation in the news media about [] President [Trump's] personal culpability. Yet, as he said from the beginning, there was in fact no collusion. And as the [Mueller] [R]eport acknowledges, there is substantial evidence to show that [] President [Trump] was frustrated and angered by a sincere belief that the investigation was undermining his presidency, propelled by his political opponents, and fueled by illegal leaks. Nonetheless, the White House fully cooperated with [] Special Counsel [Mueller's] investigation, providing unfettered access to campaign and White House documents, directing senior aides to testify freely, and asserting no privilege claims. And at the same time, [] President [Trump] took no act that in fact deprived [] Special Counsel [Mueller] of the documents and witnesses necessary to complete his investigation. Apart from whether the acts were obstructive, this evidence of non-corrupt motives weighs heavily against any allegation that [] President [Trump] had a corrupt intent to obstruct the investigation.

Attorney General William P. Barr Delivers Remarks on the Release of the Report on the Investigation into Russian Interference in the 2016 Presidential Election, U.S. Dep't of Justice,

<https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-release-report-investigation-russian> (last visited Mar. 5, 2020). Similar statements were made in his April 18, 2019 letter. See Def.’s Mot., Ex. 7 (April 18, 2019 Letter) at 1–3 (stating that Special Counsel Mueller’s “bottom-line conclusion on the question of so-called ‘collusion’ [was] [that] [t]he investigation did not establish that members of the Trump [c]ampaign conspired or coordinated with the Russian government in its election interference activities” and that “the evidence set forth in the [] [Mueller] [R]eport was [not] sufficient to establish that [] President [Trump] committed an obstruction-of-justice offense”).

As noted earlier, the Court has reviewed the redacted version of the Mueller Report, Attorney General Barr’s representations made during his April 18, 2019 press conference, and Attorney General Barr’s April 18, 2019 letter. And, the Court cannot reconcile certain public representations made by Attorney General Barr with the findings in the Mueller Report. The inconsistencies between Attorney General Barr’s statements, made at a time when the public did not have access to the redacted version of the Mueller Report to assess the veracity of his statements, and portions of the redacted version of the Mueller Report that conflict with those statements cause the Court to seriously question whether Attorney General Barr made a calculated attempt to influence public discourse about the Mueller Report in favor of President Trump despite certain findings in the redacted version of the Mueller Report to the contrary.

These circumstances generally, and Attorney General Barr’s lack of candor specifically, call into question Attorney General Barr’s credibility and in turn, the Department’s representation that “all of the information redacted from the version of the [Mueller] Report released by [] Attorney General [Barr]” is protected from disclosure by its claimed FOIA exemptions. Brinkmann Decl. ¶ 11 (emphasis added). In the Court’s view, Attorney General

Barr's representation that the Mueller Report would be "subject only to those redactions required by law or by compelling law enforcement, national security, or personal privacy interests" cannot be credited without the Court's independent verification in light of Attorney General Barr's conduct and misleading public statements about the findings in the Mueller Report, *id.*, Ex. 7 (April 18, 2019 Letter) at 3, and it would be disingenuous for the Court to conclude that the redactions of the Mueller Report pursuant to the FOIA are not tainted by Attorney General Barr's actions and representations. And, despite the Department's representation that it "review[ed] the full unredacted [Mueller] Report for disclosure pursuant to the FOIA," Brinkmann Decl. ¶ 11, the Court cannot ignore that the Department's withholdings under the FOIA exemptions mirror the redactions made pursuant to Attorney General Barr's guidance, which cause the Court to question whether the redactions are self-serving and were made to support, or at the very least to not undermine, Attorney General Barr's public statements and whether the Department engaged in post-hoc rationalization to justify Attorney General Barr's positions.

Despite what the Court has just outlined, the Department nonetheless claims that the plaintiffs' assertions of bad faith are merely speculative and "do not show that 'information contained in [the Department's declaration] is contradicted by other evidence in the record.'" Def.'s Reply at 53–54. However, "[i]n camera inspection does not depend on a finding or even tentative finding of bad faith," but rather, "[a] judge has discretion to order [i]n camera inspection on the basis of an uneasiness, on a doubt that he wants satisfied before he takes responsibility for a *de novo* determination." *Ray*, 587 F.2d at 1196. In fact, this is precisely the type of situation that Congress envisioned when it enacted the FOIA in 1966—"to pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny," *U.S. Dep't of*

the Air Force v. Rose, 425 U.S. 352, 361 (1976) (internal quotation marks omitted), and to provide “a means for citizens to know what their [g]overnment is up to,” Nat’l Archives & Records Admin. v. Favish, 541 U.S. 157, 171 (2004) (internal quotation marks omitted). As this Circuit has noted, “Congress was all too aware of the [i]nnumerable times that agencies had withheld information under prior law only to cover up embarrassing mistakes or irregularities[,] [and the] FOIA was designed to prevent such incidents[.]” Wash. Post Co. v. U.S. Dep’t of Health & Human Servs., 690 F.2d 252, 264 (D.C. Cir. 1982) (first alteration in original) (internal quotation marks omitted). The FOIA’s policy of broad disclosure of government documents not only “give[s] citizens access to the information on the basis of which government agencies make their decisions, thereby equipping the populace to evaluate and criticize those decisions,” McGehee v. Cent. Intelligence Agency, 697 F.2d 1095, 1108–09 (D.C. Cir. 1983); see also Favish, 541 U.S. at 171–72 (“This phrase should not be dismissed as a convenient formalism[;] [i]t defines a structural necessity in a real democracy.”); Wash. Post Co., 690 F.2d at 264 (“[T]he purpose of [the] FOIA is to permit the public to decide for itself whether government action is proper.”), but also “ensure[s] an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed,” Nat’l Labor Relations Bd., 437 U.S. at 242; see also Envtl. Prot. Agency v. Mink, 410 U.S. 73, 105 (1973) (Douglas, J., dissenting) (characterizing the philosophy of the FOIA as “[t]he generation that made the nation thought secrecy in government one of the instruments of Old World tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted to know what their government is up to”).

Here, although it is with great consternation, true to the oath that the undersigned took upon becoming a federal judge, and the need for the American public to have faith in the judicial

process, considering the record in this case, the Court must conclude that the actions of Attorney General Barr and his representations about the Mueller Report preclude the Court's acceptance of the validity of the Department's redactions without its independent verification. Adherence to the FOIA's objective of keeping the American public informed of what its government is up to demands nothing less. Accordingly, the Court will conduct an independent review of the unredacted version of the Mueller Report to determine whether it concurs with the Department's determination that the redactions of the Mueller Report are authorized by the FOIA exemptions upon which the Department relies.

IV. CONCLUSION

For the foregoing reasons, the Court concludes that it must grant in part and deny without prejudice in part the plaintiffs' motions. Specifically, the Court must grant the plaintiffs' motions to the extent they seek in camera review of the unredacted version of the Mueller Report and deny without prejudice the plaintiffs' motions in all other respects. The Court further concludes that it must deny without prejudice the Department's motion for summary judgment and directs the Department to submit the unredacted version of the Mueller Report to the Court for in camera review. If, after reviewing the unredacted version of the Mueller Report, the Court concludes that all of the information has been appropriately withheld under the claimed FOIA exemptions, it will issue a supplemental Memorandum Opinion and Order granting the Department's motion for summary judgment on that ground and denying the plaintiffs' cross-motions. On the other hand, if the Court concludes after its in camera review that any of the redacted information was inappropriately withheld, it will issue a supplemental Memorandum Opinion and Order that comports with that finding.

SO ORDERED this 5th day of March, 2020.³

REGGIE B. WALTON
United States District Judge

³ The Court will contemporaneously issue an Order consistent with this Memorandum Opinion.

U.S. Senate Committee on the Judiciary
Ranking Member Dianne Feinstein
202-224-(b) (6)

United States Senate

April 17, 2020

Jeffrey R. Ragsdale
Acting Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW,
Washington, D.C. 20530

Dear Mr. Ragsdale and Mr. Horowitz:

We write to express concern about statements made by Attorney General William Barr regarding the firing of Intelligence Community Inspector General (ICIG) Michael Atkinson. In defending the President, the Attorney General misstated key facts. This is a disservice to ICIG Atkinson. It also raises broader questions about whether Attorney General Barr is following Department policies and rules of professional conduct that demand candor and impartiality from lawyers, particularly those who serve the public trust.

In a recent press interview, Attorney General Barr said that ICIG Atkinson had “ignored” guidance from the Department of Justice that “he is obliged to follow”—namely, a determination that the Ukraine whistleblower’s complaint should not be transmitted to Congress. [Fox News 4/9/2020] Thus, according to Attorney General Barr, the President “was correct” and “did the right thing” by firing ICIG Atkinson.

In fact, ICIG Atkinson did not transmit the complaint or reveal its contents to Congress. Rather, after determining that the Ukraine whistleblower complaint involved an “urgent concern,” he forwarded it to the Director of National Intelligence (DNI) as required by the Intelligence Community Whistleblower Protection Act. [50 U.S.C. § 3033 (k)(5)] When ICIG Atkinson and DNI Joseph Maguire then disagreed on whether to transmit the complaint to Congress, ICIG Atkinson followed the law and notified Congress of this disagreement. [50 U.S.C. § 3033 (k)(3)(A)(i)]

Moreover, the Attorney General gravely misrepresents the legal opinion issued by his own Department concerning the complaint. When the Office of Legal Counsel opined that the complaint did not qualify as an “urgent concern,” it only stated that the law did not *require* DNI Maguire to forward the complaint to Congress. [OLC Op. 9/24/2019] The opinion left DNI Maguire with the *discretion* to do so, and it was ultimately DNI Maguire, not ICIG Atkinson, who transmitted the complaint to Congress. [HPSCI Tr. 9/26/2019] According to DNI Maguire, ICIG Atkinson “followed the law every step of the way.” [HPSCI Tr. 9/26/2019] And his summary termination by the President may have violated the law. [Bipartisan Letter 4/8/2020; see also 50 U.S.C. § 3033(c)(4)]

This is not the only time that the Attorney General has misstated the facts in defense of the President. In the same interview where he falsely portrayed ICIG Atkinson as insubordinate, Attorney General Barr also asserted that the FBI opened its 2016 investigation into the Trump campaign's ties to Russia "without any basis." To the contrary, the Department's Office of Inspector General concluded that the FBI had a legitimate legal and factual basis to investigate the Trump campaign's ties to Russia. [OIG Report 12/9/2019]

Attorney General Barr has also repeatedly mischaracterized key aspects of Special Counsel Mueller's findings in letters to Congress and public statements. In a recent opinion examining these "misleading" statements, D.C. District Court Judge Reggie Walton found that Attorney General Barr had "distorted the findings in the Mueller Report," causing "the Court to seriously question whether Attorney General Barr made a calculated attempt to influence public discourse about the Mueller Report in favor of President Trump." [*Elec. Privacy Info. Ctr. v. United States Dep't of Justice*, No. CV 19-810 (RBW), 2020 WL 1060633, at *8-9 (D.D.C. Mar. 5, 2020)] Judge Walton's finding that Attorney General Barr may have intentionally distorted facts to further the President's interests warrants your attention.

It is critical that the American people have confidence in the work of the Justice Department, which requires that all of its employees—and most importantly, the Attorney General—be truthful and impartial. Accordingly, we request that you investigate whether Attorney General Barr's statements in matters involving the interests of the President violate applicable Justice Department policies and rules of professional conduct.

We appreciate your prompt attention to this request.

Sincerely,



Dianne Feinstein
Ranking Member
Senate Judiciary Committee



Mark R. Warner
Vice Chairman
Senate Select Committee on Intelligence

cc: The Honorable Lindsey O. Graham
Chairman, Senate Committee on the Judiciary

The Honorable Richard Burr
Chairman, Senate Select Committee on Intelligence

May 8, 2020

Mr. Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Mr. Jeffrey R. Ragsdale
Acting Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Inspector General Horowitz and Director Ragsdale:

We write to request that you immediately open an investigation into the Department of Justice's unprecedented decision to drop charges against former National Security Advisor Michael T. Flynn, as well as the Department's pattern of politicized decision making. As you know, Flynn twice pled guilty to lying to federal investigators and repeatedly admitted his guilt in court. The Department's decision thus appears to be based solely on President Trump's clear desire to shield his political allies from responsibility for their actions and to reject the clear reality that his Administration broke the law in its effort to obstruct legitimate investigations into its conduct. If this decision is not investigated, it poses a clear and present threat to the rule of law.

In January of 2017, Michael Flynn lied to federal investigators about contacts with the Russian government. He did so despite investigators giving him multiple opportunities to correct his statements and despite the fact that investigators were examining serious accusations of Russian interference in U.S. elections and Trump Administration complicity in that interference. Specifically, Flynn falsely denied that he had encouraged Russian Ambassador Sergey Kislyak to delay responding to U.S. sanctions against Russia, implying that the Trump Administration would take a friendlier approach to the Putin government than had President Obama.

On December 1, 2017, Special Counsel Robert Mueller announced a plea bargain with Flynn under which Flynn admitted to "willfully and knowingly" making false statements to investigators that "impeded and otherwise had a material impact on the FBI's ongoing investigation into the existence of any links or coordination between individuals associated with the [Trump] Campaign and Russia's efforts to interfere with the 2016 presidential election." Pursuant to that agreement, Flynn was not prosecuted for other federal crimes he may have committed, provided he cooperate with investigators in their ongoing probe into the Trump Administration. It was reported that Flynn had been in contact with senior members of the Trump Administration about his clandestine communications with Russia but had lied to others within the Administration, including Vice President Mike Pence, potentially opening himself up

to blackmail. Despite being warned about Flynn's lies, however, President Trump acted to remove Flynn only when his actions became public.

Flynn's sentencing was deferred as Judge Emmet Sullivan expressed concerns that the gravity of Flynn's crimes might deserve a more serious penalty than the government had initially requested. As President Trump made clear that he was inclined to support allies who broke the law to cover up the president's own misdeeds, Flynn became less cooperative with federal investigators. Ultimately, his defense lawyers began to echo President Trump's rhetoric, claiming without evidence that their client had been set up.

The facts of the Flynn case are clear. Flynn broke the law. The Justice Department's claim that it would be unable to prove Flynn's lies were "material" to their investigation defies belief. Flynn lied about contact with Russia at the beginning of an investigation into Russian coordination with the Trump Administration. He took this dangerous step because he knew that the truth would lead investigators to evidence of his own criminal conduct and potentially to evidence of crimes committed by other members of the Administration. If powerful individuals can lie to investigators with impunity, law enforcement will be unable to protect the public.

Any reasonable American witnessing the actions of the last several weeks must seriously question whether the Department of Justice can any longer claim its proud tradition of professionalism and independence from political influence. First, President Trump criticized the Flynn investigation based on misleading descriptions of Flynn's investigators' actions. After it became clear that no reasonable judge – and certainly not Judge Sullivan – would accept President Trump's claims, the president indicated that he might pardon Flynn but hoped that something would happen first to relieve him of that decision. Then the Department dropped its charges, in a filing signed only by a political appointee who President Trump has not even bothered to submit for Senate confirmation. Every career prosecutor involved in the case declined to participate in this mockery of justice, and no Justice Department official or outside expert can find a precedent for such a blatant abdication of the Department's responsibilities.

This latest outrage is part of a pattern. First, Attorney General Barr misrepresented the outcome of the Mueller investigation while withholding the actual Mueller report from the American people. Since then, Barr has eagerly investigated the investigators of President Trump while ignoring the Trump Administration's own wrongdoing. At times, the link between President Trump's tweets and Barr's actions has been so tight that even Barr has urged the president to be more circumspect.

This politicization of the Justice Department cannot be allowed to continue without scrutiny. We ask that you immediately open an investigation into Justice Department policies, procedures, and practices related to politically sensitive prosecutions. As part of this investigation, we ask that you determine why the Department chose to drop its charges against Flynn, why no career prosecutor joined in that decision, and what role Attorney General Barr and President Trump played. The American people deserve to know whether the Justice Department has become a tool of political manipulation.

Thank you for your consideration. Please contact (b) (6) at (b) (6) and (b) (6) at (b) (6) with any questions.

Sincerely,



RICHARD BLUMENTHAL
United States Senate



SHELDON WHITEHOUSE
United States Senate

From: no-reply@usdoj.gov on behalf of [Department of Justice via Department of Justice](#)
To: [OPR Intake Form](#)
Subject: Form submission from: How to File a Complaint with the Office of Professional Responsibility
Date: Friday, September 4, 2020 1:46:38 PM

Submitted on: Friday, September 4, 2020 - 1:45pm EDT
Submitted to: Anonymous
Submitted values are:

Name of person seeking OPR's action (Complainant): Ms.

First: (b) (6)

Middle: (b) (6)

Last: (b) (6)

Suffix (if applicable):

Complainant Type: General Public

Inmate/Detainee Number:

Other:

Company/Organization:

Complainant mailing address: (b) (6)

City: (b) (6)

State: (b) (6)

Zip: (b) (6)

Complainant email address: (b) (6)

Complainant phone number: (b) (6)

Complainant fax number:

If you are filing this complaint as a legal or other representative of the Complainant, please provide the following information:

Name and title of the filer:

First:

Middle:

Last:

Suffix (if applicable):

Your preferred mailing address:

City:

State:

Zip:

Your email address:

Information about the DOJ Attorney or DOJ Law Enforcement Official You Are Complaining About (Subject)

Name of the person(s) you are complaining about (Subject): Mr.

First: William

Middle:

Last: Barr

Suffix (if applicable):

Subject's Job Title: DOJ Attorney (Non-AUSA)

Other:

Company/Organization:

Location of Subject's Office: Main justice
Does your complaint involve more than one person? No

*Information about your complaint *

What are the actions, events, or allegations that you are reporting to OPR?
(e.g., attorney misconduct, Whistleblower retaliation, Giglio/Brady violation, etc.): Attorney Misconduct
When did the incident occur?: Tue, 09/01/2020

*Please provide a brief description summarizing the:**

- * reason(s) for your complaint including the details, actions, events, or allegations,
- * case names,
- * potential witnesses and their involvement,
- * where the incident occurred,
- * how the incident occurred, and
- * any corrective actions already taken
- * For *Whistleblower complaints only* – describe the personnel action(s) that occurred or failed to occur because of a protected disclosure: (an appointment, a promotion, an action under 5 U.S.C. Chapter 75 or other disciplinary or corrective action; a detail, transfer, or reassignment; a reinstatement; a restoration; a reemployment; a decision about pay, benefits or awards, concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation or other action described in 5 U.S.C. § 2302 (a)(2); a performance evaluation under 5 U.S.C. Chapter 43; a decision to order psychiatric testing or examination; or any other significant change in duties, responsibilities, or working conditions.)

Please provide a brief summary of the complaint:

In an interview with Wolf Blitzer, on CNN, Attorney General Barr was asked whether it was illegal for President Trump to encourage voters to vote twice.

AG Barr responded that he did not know the laws of each state. That response

with irrelevant and a misrepresentation. He could have opined, and should have, on federal law. As the AG, he engaged in a deceitful misrepresentation by not providing a complete and forthright answer to the question, thereby misleading viewers, the public.

The AG, as all DOJ lawyers, must comply with the relevant bar rules, which prohibits such misconduct.

Certification and Signature (Enter your initials here to certify and sign this form.) (b) (6)

The results of this submission may be viewed at:

<https://www.justice.gov/node/1019501/submission/12609816>

From: no-reply@usdoj.gov on behalf of [Department of Justice via Department of Justice](#)
To: [OPR Intake Form](#)
Subject: Form submission from: How to File a Complaint with the Office of Professional Responsibility
Date: Wednesday, September 9, 2020 3:48:42 PM

Submitted on: Wednesday, September 9, 2020 - 3:46pm EDT

Submitted to: Anonymous

Submitted values are:

Name of person seeking OPR's action (Complainant): Mr.

First: (b) (6)

Middle:

Last: (b) (6)

Suffix (if applicable):

Complainant Type: General Public

Inmate/Detainee Number:

Other:

Company/Organization:

Complainant mailing address: (b) (6)

City: (b) (6)

State: (b) (6)

Zip: (b) (6)

Complainant email address: (b) (6)

Complainant phone number: (b) (6)

Complainant fax number:

If you are filing this complaint as a legal or other representative of the Complainant, please provide the following information:

Name and title of the filer:

First:

Middle:

Last:

Suffix (if applicable):

Your preferred mailing address:

City:

State:

Zip:

Your email address:

Information about the DOJ Attorney or DOJ Law Enforcement Official You Are Complaining About (Subject)

Name of the person(s) you are complaining about (Subject): Mr.

First: William

Middle:

Last: Barr

Suffix (if applicable):

Subject's Job Title: Other (Please specify below)

Other: Attorney General of the United States

Company/Organization:

Location of Subject's Office: Washington DC
Does your complaint involve more than one person? No

*Information about your complaint *

What are the actions, events, or allegations that you are reporting to OPR?
(e.g., attorney misconduct, Whistleblower retaliation, Giglio/Brady violation, etc.): DOJ Law Enforcement Agent
When did the incident occur?: Wed, 09/09/2020

*Please provide a brief description summarizing the:**

- * reason(s) for your complaint including the details, actions, events, or allegations,
- * case names,
- * potential witnesses and their involvement,
- * where the incident occurred,
- * how the incident occurred, and
- * any corrective actions already taken
- * For *Whistleblower complaints only* – describe the personnel action(s) that occurred or failed to occur because of a protected disclosure: (an appointment, a promotion, an action under 5 U.S.C. Chapter 75 or other disciplinary or corrective action; a detail, transfer, or reassignment; a reinstatement; a restoration; a reemployment; a decision about pay, benefits or awards, concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation or other action described in 5 U.S.C. § 2302 (a)(2); a performance evaluation under 5 U.S.C. Chapter 43; a decision to order psychiatric testing or examination; or any other significant change in duties, responsibilities, or working conditions.)

Please provide a brief summary of the complaint: I would like to file an official complaint concerning misconduct by the Attorney General of the United States, William Barr. He is using taxpayer money to defend President Trump against a defamation lawsuit brought by E. Jean Carroll. This is extremely unethical and against DOJ policy. Does the DOJ ethics department still exist?

Certification and Signature (Enter your initials here to certify and sign this form.): (b) (6)

The results of this submission may be viewed at:
<https://www.justice.gov/node/1019501/submission/12652136>

United States Senate

WASHINGTON, DC 20510

May 6, 2019

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Mr. Corey R. Amundson
Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530

Dear Inspector General Horowitz and Director Amundson:

We write to request that the Office of the Inspector General and the Office of Professional Responsibility open an investigation into whether Attorney General William Barr and members of his team had any improper communications with the White House about ongoing investigations related to Special Counsel Mueller's investigation into Russian interference in the 2016 Presidential election.

As you know, the Special Counsel referred 14 cases to other components of the Department of Justice for further investigation. The captions of these 14 cases are redacted under the heading "Harm to Ongoing Matter" in Appendix D of the Special Counsel's Report. In the May 1, 2019 hearing on the investigation before the Senate Judiciary Committee, Senator Blumenthal asked Mr. Barr if he had any conversations with anyone in the White House about any of these investigations. His response was that he did not recall having any "substantive discussion" with the White House about these matters. When pressed further and asked if he had any non-substantive discussion with anyone at the White House, however, Mr. Barr said, "It's possible a name of a case was mentioned."

It would be highly inappropriate if Mr. Barr did in fact share case names with, and by default revealed the identity of, any defendants in those cases to the White House, particularly given that those same cases have been shielded from public view in the Special Counsel's report. As Mr. Barr's own explanation for his redactions of the report indicate, revealing this information could "interfere" with these investigations. Moreover, these ongoing matters could implicate the conduct of individuals in the White House, including the president, his family, and his business associates. Indeed, we have reason to think that in one such case being pursued by the U.S. Attorney for the Southern District of New York, *United States v. Michael Cohen*, the president has been implicated in directing a criminal conspiracy to violate

campaign finance law. Sharing information about the investigations with the president, his lawyers, or even White House lawyers, would be highly inappropriate and potentially harmful to the resolution of those investigations.

We urge you to open an investigation into whether any improper communications occurred between the Department of Justice and the White House with respect to the Special Counsel's investigation, particularly with respect to these 14 cases. Specifically, we request that you investigate whether Mr. Barr revealed any names of any of the 14 cases referred by Special Counsel Mueller, or the defendants in those cases, to the White House, as his testimony before our Committee indicated. As part of this investigation, we urge you to probe which names Barr revealed to the White House, to whom he revealed this information, whether any other details about these cases were discussed with individuals in the White House, including the president, the nature of those details, with whom they were discussed, and when they were discussed.

Thank you for your attention to this important matter.

Sincerely,


RICHARD BLUMENTHAL
United States Senate


SHELDON WHITEHOUSE
United States Senate


MAZIE K. HIRONO
United States Senate

Congress of the United States
House of Representatives
Washington, DC 20515-0913

APPROPRIATIONS COMMITTEE
SUBCOMMITTEES:
DEFENSE
COMMERCE, JUSTICE, SCIENCE
FINANCIAL SERVICES AND
GENERAL GOVERNMENT
SCIENCE, SPACE, AND
TECHNOLOGY COMMITTEE
SUBCOMMITTEES:
SPACE AND AERONAUTICS
ENVIRONMENT

May 23, 2019

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Corey R. Amundson
Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Suite 3266
Washington, D.C. 20530

Dear Inspector General Horowitz and Director Amundson:

I write today about misleading and inaccurate statements made by Attorney General William P. Barr during his testimony in front of the House Appropriations Committee on April 9, 2019. In light of his testimony, and subsequent reports contradicting that testimony, I respectfully request that the Office of the Inspector General and the Office of Professional Responsibility immediately begin investigations into Mr. Barr's conduct.

During the hearing, I asked Mr. Barr about his conclusions and interactions with Special Counsel Robert Mueller and members of his team as I tried to discern how Mr. Barr was able to conclusively state that President Trump did not commit obstruction of justice.

Below is the transcript of my exchange with the Attorney General:

CRIST:

Okay. Reports have emerged recently, general, that members of the Special Counsel's team are frustrated at some level with the limited information included in your March 24th letter, that it does not adequately or accurately, necessarily, portray the report's findings. Do you know what they are referencing with that?

BARR:

No, I don't—

However, the Washington Post and the New York Times later reported that Mr. Mueller wrote Mr. Barr twice because he was concerned that Mr. Barr's public statements "did not fully capture the context, nature, and substance" of the investigation¹. Additionally, Mr. Mueller was concerned that Mr. Barr's public statements undermined "[...] public confidence in the outcome

¹ https://www.washingtonpost.com/world/national-security/mueller-complained-that-barrs-letter-did-not-capture-context-of-trump-probe/2019/04/30/d3c8fdb6-6b7b-11e9-a66d-a82d3f3d96d5_story.html?utm_term=.b9541dc390ae

of the investigation.”² Mr. Mueller feared that misinformation released by Mr. Barr was skewing the report and muddying facts.

Mr. Barr’s continued insistence that his statements were not misleading during his testimony is particularly egregious considering his previous experience serving as Attorney General. Mr. Barr’s flippant responses ignore the gravity of this investigation and its impact on our nation and national security. Congress depends on truthful information in order to make informed decisions. As the chief law enforcement officer in the nation, Mr. Barr’s allegiance is not to President Trump but to the American people who deserve transparency and truth.

I look forward to hearing from your offices regarding this request.

Sincerely,



Charlie Crist
UNITED STATES CONGRESSMAN

² https://www.washingtonpost.com/world/national-security/mueller-complained-that-barrs-letter-did-not-capture-context-of-trump-probe/2019/04/30/d3c8fdb5-6b7b-11e9-a66d-a82d3f3d96d5_story.html?utm_term=.464f3f4737e2

United States Senate

WASHINGTON, DC 20510

December 5, 2019

The Honorable Jeffrey Ragsdale
Acting Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Acting Director and Chief Counsel Ragsdale:

We write to ask that you open an ethics investigation into Attorney General William Barr's recently revealed decision to approve an illegal, bulk surveillance program that collected billions of records of Americans' telephone without conducting any legal analysis of the program.

On March 28, 2019, the Department of Justice (DOJ) Office of Inspector General (OIG) published a report identifying serious problems with a two-decade long Drug Enforcement Administration (DEA) bulk data collection program. As Attorney General in the Bush Administration in 1992, Mr. Barr provided approval for the DEA to use its subpoena authority (21 U.S.C. 876(a)) to obtain, in bulk, records of all phone calls between Americans in the United States and people in countries of interest to the DEA. As the OIG noted, the program "involved the collection of telephone call records for billions of telephone calls from the United States to many different countries."

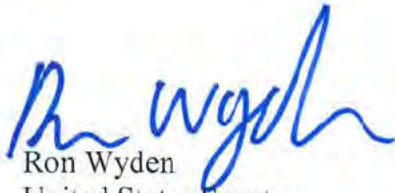
The OIG "found no evidence that anyone in the Department of Justice or the DEA prepared a comprehensive legal analysis of [the program], particularly the use of administrative subpoenas to amass a bulk collection of telephone metadata, prior to the program being established." The OIG found that this failure "troubling" because of the "uniquely expansive use of 876(a) to collect data in bulk without making a prior finding that the records were, in the language of that statutory provision enabling DEA's subpoena authority, 'relevant or material' to any specific defined investigation." The OIG further noted that the use of administrative subpoenas for bulk collection was "not consistent with DEA's normal practice" and emphasized that there were "significant legal issues" that were never examined. Finally, the OIG identified specific U.S. Supreme Court and Ninth Circuit case law "clearly suggesting potential challenges to the validity of the DEA's use of Section 876(a)" to conduct bulk collection.

Mr. Barr's authorization of this sweeping surveillance program without requiring, at minimum, an appropriate legal analysis, was not consistent with his oath to support and defend the Constitution and it likely amounted to professional misconduct. Attorney General Barr knew, or should have known, that neither statutory law nor federal case law permitted the DEA to

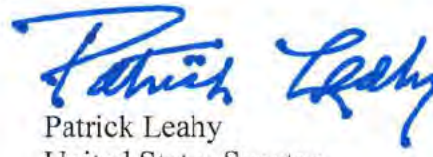
sweep up, in bulk, billions of records of Americans' telephone communications. We write to ask that you open an investigation into the authorization of this recently-disclosed illegal, bulk surveillance program that collected billions of records of Americans' telephone calls without conducting any legal analysis of the program.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
United States Senator



Patrick Leahy
United States Senator

United States Senate

April 17, 2020

Jeffrey R. Ragsdale
Acting Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW,
Washington, D.C. 20530

Dear Mr. Ragsdale and Mr. Horowitz:

We write to express concern about statements made by Attorney General William Barr regarding the firing of Intelligence Community Inspector General (ICIG) Michael Atkinson. In defending the President, the Attorney General misstated key facts. This is a disservice to ICIG Atkinson. It also raises broader questions about whether Attorney General Barr is following Department policies and rules of professional conduct that demand candor and impartiality from lawyers, particularly those who serve the public trust.

In a recent press interview, Attorney General Barr said that ICIG Atkinson had “ignored” guidance from the Department of Justice that “he is obliged to follow”—namely, a determination that the Ukraine whistleblower’s complaint should not be transmitted to Congress. [Fox News 4/9/2020] Thus, according to Attorney General Barr, the President “was correct” and “did the right thing” by firing ICIG Atkinson.

In fact, ICIG Atkinson did not transmit the complaint or reveal its contents to Congress. Rather, after determining that the Ukraine whistleblower complaint involved an “urgent concern,” he forwarded it to the Director of National Intelligence (DNI) as required by the Intelligence Community Whistleblower Protection Act. [50 U.S.C. § 3033 (k)(5)] When ICIG Atkinson and DNI Joseph Maguire then disagreed on whether to transmit the complaint to Congress, ICIG Atkinson followed the law and notified Congress of this disagreement. [50 U.S.C. § 3033 (k)(3)(A)(i)]

Moreover, the Attorney General gravely misrepresents the legal opinion issued by his own Department concerning the complaint. When the Office of Legal Counsel opined that the complaint did not qualify as an “urgent concern,” it only stated that the law did not *require* DNI Maguire to forward the complaint to Congress. [OLC Op. 9/24/2019] The opinion left DNI Maguire with the *discretion* to do so, and it was ultimately DNI Maguire, not ICIG Atkinson, who transmitted the complaint to Congress. [HPSCI Tr. 9/26/2019] According to DNI Maguire, ICIG Atkinson “followed the law every step of the way.” [HPSCI Tr. 9/26/2019] And his summary termination by the President may have violated the law. [Bipartisan Letter 4/8/2020; see also 50 U.S.C. § 3033(c)(4)]

This is not the only time that the Attorney General has misstated the facts in defense of the President. In the same interview where he falsely portrayed ICIG Atkinson as insubordinate, Attorney General Barr also asserted that the FBI opened its 2016 investigation into the Trump campaign's ties to Russia "without any basis." To the contrary, the Department's Office of Inspector General concluded that the FBI had a legitimate legal and factual basis to investigate the Trump campaign's ties to Russia. [OIG Report 12/9/2019]

Attorney General Barr has also repeatedly mischaracterized key aspects of Special Counsel Mueller's findings in letters to Congress and public statements. In a recent opinion examining these "misleading" statements, D.C. District Court Judge Reggie Walton found that Attorney General Barr had "distorted the findings in the Mueller Report," causing "the Court to seriously question whether Attorney General Barr made a calculated attempt to influence public discourse about the Mueller Report in favor of President Trump." [*Elec. Privacy Info. Ctr. v. United States Dep't of Justice*, No. CV 19-810 (RBW), 2020 WL 1060633, at *8-9 (D.D.C. Mar. 5, 2020)] Judge Walton's finding that Attorney General Barr may have intentionally distorted facts to further the President's interests warrants your attention.

It is critical that the American people have confidence in the work of the Justice Department, which requires that all of its employees—and most importantly, the Attorney General—be truthful and impartial. Accordingly, we request that you investigate whether Attorney General Barr's statements in matters involving the interests of the President violate applicable Justice Department policies and rules of professional conduct.

We appreciate your prompt attention to this request.

Sincerely,



Dianne Feinstein
Ranking Member
Senate Judiciary Committee



Mark R. Warner
Vice Chairman
Senate Select Committee on Intelligence

cc: The Honorable Lindsey O. Graham
Chairman, Senate Committee on the Judiciary

The Honorable Richard Burr
Chairman, Senate Select Committee on Intelligence

Congress of the United States
Washington, DC 20515

April 20, 2020

Jeffrey R. Ragsdale
Acting Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Mr. Ragsdale and Mr. Horowitz:

We write to request that you investigate whether recent public statements by Attorney General William Barr regarding former Inspector General of the Intelligence Community (ICIG) Michael Atkinson violated applicable Department of Justice (DOJ) policies and rules of professional conduct.

In a televised interview on April 9, 2020, Mr. Barr blatantly mischaracterized Mr. Atkinson's conduct and DOJ's own actions relating to the complaint filed last summer by an Intelligence Community whistleblower.¹ The complaint detailed President Trump's efforts to coerce Ukraine to announce a politically-motivated investigation of his rival in the 2020 presidential election. Mr. Barr's remarks followed the President's admission on April 4 that he fired Mr. Atkinson in retaliation for Mr. Atkinson's handling—in accordance with the law—of the whistleblower complaint.² The House of Representatives' investigation independently confirmed the whistleblower's account of the President's abuse of power, for which the President was subsequently impeached. Mr. Barr's misleading remarks appear to have been aimed at justifying the President's retaliatory decision to fire Mr. Atkinson.

As Senators Diane Feinstein and Mark Warner underscored in their April 17 letter to you, Mr. Atkinson neither "ignored" DOJ guidance, nor acted contrary to his legal and professional

¹ Interview with Attorney General William Barr, Fox News, April 9, 2020 ("I think the president did the right thing in removing Atkinson. From the vantage point of the Department of Justice, he had interpreted his statute, which is a fairly narrow statute, that gave him jurisdiction over wrongdoing by Intelligence people, and tried to turn it in to a commission to explore anything in the government and immediately report to Congress without letting the Executive Branch look at it and determine whether there was any problem. He was told this in a letter from the Department of Justice, and he is obliged to follow the interpretation of the Department of Justice, and he ignored it. So I think the president was correct in firing him.").

² The White House, *Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing*, April 4, 2020 (Remarks of President Trump) ("I thought he [Mr. Atkinson] did a terrible job. Absolutely terrible. He took a whistleblower report, which turned out to be a fake report — it was fake. It was totally wrong. It was about my conversation with the President of Ukraine. He took a fake report and he brought it to Congress, with an emergency. Okay? Not a big Trump fan — that, I can tell you."), *available at*: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-19>.

obligations in handling the whistleblower complaint, as Mr. Barr alleged.³ To the contrary, Mr. Atkinson faithfully discharged his legal obligations as an independent and impartial Inspector General in accordance with federal law.

Then-acting Director of National Intelligence (DNI) Joseph Maguire affirmed this in his sworn testimony before the House Intelligence Committee on September 26, 2019. Mr. Maguire testified that Mr. Atkinson handled the Ukraine whistleblower complaint “by the book” and in strict accordance with statutory requirements.⁴ Mr. Atkinson never transmitted the whistleblower complaint to the House or Senate Intelligence Committees, nor did he reveal its contents to Congress. Instead, Mr. Atkinson properly alerted the congressional intelligence committees to the existence of the whistleblower complaint after he was unable to resolve a difference with acting DNI Maguire about whether the complaint should be transmitted to Congress.⁵ Mr. Maguire testified that he supported Mr. Atkinson’s decision to alert the congressional intelligence committees. In short, President Trump fired Mr. Atkinson simply for doing his job and following the law.

In maligning Mr. Atkinson and falsely portraying him as insubordinate, Mr. Barr misrepresented DOJ’s legal opinion concerning the whistleblower complaint. Mr. Barr’s remarks also ignored the impropriety of DOJ’s coordination with the White House to prevent a whistleblower complaint concerning presidential misconduct from reaching Congress. In order to keep Congress in the dark about the existence of the complaint, the White House and DOJ collaborated to develop meritless justifications designed to circumvent the clear statutory requirement that all such complaints “shall” be transmitted to the congressional intelligence committees.⁶

Specifically, DOJ’s Office of Legal Counsel (OLC) issued a secret opinion that absurdly concluded that the statute—contrary to its plain text—did not require acting DNI Maguire to

³ Interview with Attorney General William Barr, Fox News, April 9, 2020. *See also* Letter from Senators Dianne Feinstein and Mark R. Warner to Jeffrey R. Ragsdale, Office of Professional Responsibility, and Michael E. Horowitz, Inspector General, Department of Justice, April 17, 2020, *available at*: <https://www.feinstein.senate.gov/public/cache/files/7/4/74cc2af5-a011-41fe-b8a7-af3fa9a1f97c/97EA40385B91689933EAC2099710A202.2020.04.17-df-mw-letter-to-opr-oig-re-ag-barr-misleading-statements-final-pdf-.docx.pdf>.

⁴ Testimony of Acting Director of National Intelligence Joseph Maguire before the House Permanent Select Committee on Intelligence, September 26, 2019, *available at*: <https://docs.house.gov/meetings/IG/IG00/20190926/110027/HHRG-116-IG00-Transcript-20190926.pdf>.

⁵ *See* 50 U.S.C. § 3033(k)(3)(A)(i) (“In the event that—the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General; [...] the Inspector General *shall immediately* notify, and submit a report to, the congressional intelligence committees on such matter.”) (emphasis added).

⁶ 50 U.S.C. § 3033 (k)(5)(C) (“Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.”).

forward the whistleblower complaint to Congress.⁷ For its part, the White House asserted that the complaint involved information subject to executive privilege that acting DNI Maguire was not authorized to release to Congress—even though executive privilege cannot be invoked to shield misconduct and was, in fact, never invoked by the President.⁸

Contrary to Mr. Barr’s false assertion that Mr. Atkinson “ignored” DOJ’s legal guidance, Mr. Atkinson explicitly acknowledged being bound by OLC’s opinion, while strongly disagreeing with it. In a non-public letter to OLC, Mr. Atkinson highlighted the contorted reasoning and troubling national security and oversight implications of OLC’s opinion that “election interference by foreign actions ... would not involve an activity or program of the intelligence community under the DNI’s supervision.”⁹ Mr. Atkinson correctly observed that the DNI is expressly charged by statute and executive orders—including one issued by President Trump himself—to lead the Intelligence Community’s effort to protect the nation from foreign election interference. After OLC’s opinion and Mr. Atkinson’s objections were made public, the Council of Inspectors General on Integrity and Efficiency (CIGIE) sent a letter to OLC strongly backing Mr. Atkinson’s position.¹⁰

Notwithstanding Mr. Atkinson’s meritorious objections, the coordinated efforts by the White House and DOJ succeeded—temporarily—in preventing Congress from receiving the whistleblower complaint. Only after immense public pressure and a subpoena issued by the House Intelligence Committee did acting DNI Maguire produce the complaint to the congressional intelligence committees in late September 2019. The role of Attorney General Barr and other senior DOJ officials, in coordination with the White House, in attempting to prevent the whistleblower complaint from reaching Congress—as required by law—warrants your attention.

Moreover, Mr. Barr’s recent remarks are part of a disturbing pattern of misrepresenting facts and falsely alleging misconduct by other government officials in order to defend the

⁷ Office of Legal Counsel, Department of Justice, “Slip Opinion: ‘Urgent Concern’ Determination by the Inspector General of the Intelligence Community,” September 3, 2020, *available at*: <https://www.justice.gov/olc/opinion/file/1205711/download>.

⁸ Testimony of Acting Director of National Intelligence Joseph Maguire before the House Permanent Select Committee on Intelligence, September 26, 2019, *available at*: <https://docs.house.gov/meetings/IG/IG00/20190926/110027/HHRG-116-IG00-Transcript-20190926.pdf>.

⁹ Letter from Michael Atkinson, Inspector General of the Intelligence Community, to Steven Engel, Assistant Attorney General, Office of Legal Counsel, Department of Justice, September 17, 2019, *available at*: https://www.ignet.gov/sites/default/files/files/ICIG_letter_to_OLC.pdf.

¹⁰ See Letter from the Council of Inspectors General on Integrity and Efficiency to Steven A. Engel, Assistant Attorney General, Office of Legal Counsel, Department of Justice, October 22, 2019, *available at*: https://www.ignet.gov/sites/default/files/files/CIGIE_Letter_to_OLC_Whistleblower_Disclosure.pdf. (“This letter from the Council of the Inspectors General on Integrity and Efficiency, on behalf of the undersigned federal Inspectors General (IG), expresses our support for the position advanced by the ICIG and our concern that the OLC opinion, if not withdrawn or modified, could seriously undermine the critical role whistleblowers play in coming forward to report waste, fraud, abuse, and misconduct across the federal government. Further, as addressed in detail below, OLC’s interpretation regarding the ICWPA procedure in question, which mirrors the procedure that Congress included in Section 5(d) of the Inspector General Act of 1978 (IG Act), has the potential to undermine IG independence across the federal government.”)

President's own misconduct. In the year since Special Counsel Robert Mueller concluded his investigation of Russian interference in the 2016 presidential election, Mr. Barr has persistently sought to mislead the American public in an effort to undermine the Special Counsel's investigation and findings, as well as those of the Department's own Office of Inspector General.¹¹ Indeed, a federal judge recently examined Mr. Barr's "lack of candor" and concluded that Mr. Barr "distorted the findings in the Mueller Report," which "cause[d] the Court to seriously question whether Attorney General Barr made a calculated attempt to influence public discourse about the Mueller Report in favor of President Trump."¹²

Public confidence in our system of justice depends on the integrity, fairness, and impartiality of DOJ's leadership. It is, therefore, imperative that the Attorney General be held to the same high standard expected of all Department personnel, particularly in matters involving the President's own interests. We appreciate your prompt attention to this request.

Sincerely,



Adam B. Schiff
Chairman

Permanent Select Committee on Intelligence



Jerrold Nadler
Chairman

Committee on the Judiciary

cc: The Honorable Devin Nunes, Ranking Member
Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
Committee on the Judiciary

¹¹ For example, in the same April 9 interview, Mr. Barr claimed that the Federal Bureau of Investigation (FBI) initiated its 2016 investigation into the Trump campaign's links to Russia "without any basis," despite the Special Counsel's Office's finding that "the Russian government interfered in the 2016 presidential election in sweeping and systematic fashion" and the Office of Inspector General's exhaustive review, which found that the FBI in fact had an authorized purpose and legitimate predicate for the investigation. *See* Department of Justice, Special Counsel's Office, *Report on the Investigation into Russian Interference in the 2016 Presidential Election*, March 2019, available at: <https://www.justice.gov/storage/report.pdf>; Department of Justice, Office of the Inspector General, *Review of Four FISA Applications and Other Aspects of the Crossfire Hurricane Investigation*, December 2019, available at: <https://oig.justice.gov/reports/2019/o20012.pdf>. In a grave departure from DOJ practice and policy, Mr. Barr has also prejudged a separate DOJ probe he initiated by insinuating criminal wrongdoing by officials involved in identifying and defending the country against Russian interference in the 2016 election. *See* Interview with Attorney General William Barr, Fox News, April 9, 2020.

¹² *Elec. Privacy Info. Ctr. v. United States Dep't of Justice*, No. 19 Civ. 810 (RBW), 2020 WL 1060633 (D.D.C. Mar. 5, 2020).