

# 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

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

---

<sup>1</sup> 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>.

<sup>2</sup> 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/>.

<sup>3</sup> 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/>.

<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup>

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;

---

<sup>5</sup> 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>.

<sup>6</sup> 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/>.

<sup>7</sup> 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>.

<sup>8</sup> See Devlin Barrett, Shane Harris and Matt Zapposky, *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](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).

<sup>9</sup> <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 K. 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