



United States Senate
WASHINGTON, DC 20510-0504
<http://feinstein.senate.gov>

March 25, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Barr:

Yesterday, we received your summary of Special Counsel Mueller's nearly two-year investigation and comprehensive report. However, I have several questions and request a full copy of the report and underlying evidence on behalf of the Judiciary Democrats.

Special Counsel Mueller spent nearly two years investigating, with a team of 19 lawyers and 40 FBI agents and other professional staff. As you note in your summary, "[t]he Special Counsel issued more than 2,800 subpoenas, executed nearly 500 search warrants, obtained more than 230 orders for communication records, issued almost 50 orders authorizing use of pen registers, made 13 requests to foreign government for evidence, and interviewed approximately 500 witnesses."

Congress must now determine the risks to national security, whether there was misconduct or abuse of power, whether existing laws are sufficient to deter and punish election interference, and what next steps are appropriate. A four-page summary of Special Counsel Mueller's extensive investigation and report, with no underlying evidence or findings, is not adequate to accomplish our constitutional, legislative, and oversight responsibilities.

There is no law, regulation, or DOJ practice that prevents production of information related to a closed investigation to Congress. In fact, Congress routinely requests, and receives, confidential information related to closed criminal investigations and counterintelligence matters as part of its oversight responsibilities. For example, over the past several years, Republicans have

requested and received substantial 880,000 pages, including substantial confidential and classified information related to investigations of Hillary Clinton. Republicans have also requested and received confidential material related to the Special Counsel's investigation *while it has been ongoing*, including classified documents from the FISA court.

We are willing to work with you to ensure appropriate protections are put in place to protect information that implicates legitimate privacy interests or endangers ongoing investigations or criminal cases from becoming public. But these considerations are not a reason for withholding the report or underlying documentation from Congress. To the extent you believe existing law constrains your ability to comply with this request, we ask that you immediately begin the process of consultation and accommodation so that there is no delay in reaching agreement.

Thank you for your immediate attention to this request. Please provide the full report by Monday, April 1 and start producing the underlying documentation on that date.

Sincerely,



Dianne Feinstein
United States Senator

CC: Senator Lindsey Graham,
Chairman, Senate Judiciary Committee



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 04 2019

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

We write to acknowledge and confirm receipt of your March 25, 2019, letter pertaining to Special Counsel Robert Mueller's Investigation. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committees' informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Very truly yours,

A handwritten signature in blue ink that reads "Mary Blanche Hankey".

Mary Blanche Hankey
Chief of Staff and Counselor

United States Senate
WASHINGTON, DC 20510

April 9, 2019

The Honorable William P. Barr
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Barr:

We write to again request that you provide a full copy of Special Counsel Mueller's report and underlying evidence to the Senate Judiciary Committee. We have repeatedly asked you to commit to providing this information, in its complete form, but thus far you have been unresponsive. In addition, we are troubled by recent reporting that the Special Counsel's Office prepared its own summaries of the Mueller report, which you chose not to release. We request that you provide this Committee with unredacted copies of any such summaries as well.

As you are undoubtedly aware, Rule 6(e) does not prevent the disclosure of information just because it has been presented to a grand jury. Rather, "when testimony or data is sought for its own sake for intrinsic value in the furtherance of a lawful investigation . . . , it is not a valid defense to disclosure that the same information was revealed to a grand jury." (*In re Grand Jury Investigation of Ven-Fuel*, 441 F.Supp. 1299, 1303 (M.D. Fla. 1977)). In this case, Congress is requesting this information in furtherance of its constitutional, legislative, and oversight responsibility—not to determine what was presented to the grand jury or to interfere with its work.

Courts have long recognized that Congress is entitled to information—including grand jury material—in furtherance of its constitutional responsibility to conduct oversight and investigate possible misconduct. (*See, e.g., In re Grand Jury Proceeding*, 669 F. Supp. 1072 (S.D. Fla. 1987)). Indeed, as you stated during your confirmation hearing, where there is misconduct, "[the President] would be accountable politically" by Congress. Now that the Special Counsel has finished his investigation, Congress must review the full report and underlying materials to determine the risks to national security in the wake of Russian interference in the 2016 election, whether existing laws are sufficient to deter and

punish such interference, whether there was misconduct or abuse of power, and what next steps are appropriate.


We would welcome the opportunity to work with you to ensure that appropriate protections are put in place to protect from public release information that implicates legitimate privacy interests or endangers ongoing investigations—including bona fide Rule 6(e) material. But, again, these considerations are not a reason for withholding the report or underlying documentation from Congress.

We therefore ask that you provide full copies of Special Counsel Mueller’s report, the underlying evidence, and any summaries produced by the Special Counsel’s Office without delay. Thank you for your prompt attention to this request.

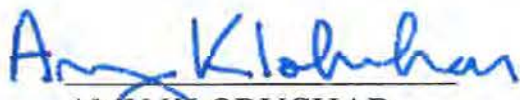
Sincerely,



DIANNE FEINSTEIN
Ranking Member


PATRICK LEAHY
United States Senator


RICHARD J. DURBIN
United States Senator


SHELDON WHITEHOUSE
United States Senator


AMY KLOBUCHAR
United States Senator


CHRISTOPHER A. COONS
United States Senator



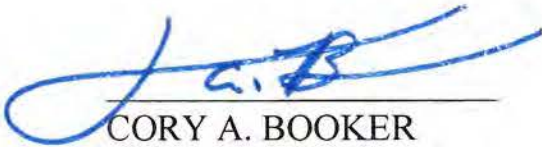
RICHARD BLUMENTHAL

United States Senator



MAZIE K. HIRONO

United States Senator



CORY A. BOOKER

United States Senator



KAMALA D. HARRIS

United States Senator

Congress of the United States
Washington, DC 20515

April 9, 2019

The Honorable William Barr
Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Barr,

As the Chairs of the Armed Services, Intelligence, and Foreign Affairs Committees of the House of Representatives, we write to underscore the vital national security interests at stake in providing Congress with Special Counsel Mueller's full, unredacted report and all underlying and related evidence and materials produced in the course of the investigation.

The United States faces an ongoing, extensively documented threat from the government of the Russian Federation in its use of influence operations to undermine U.S. national security interests and particularly our democratic system of government. These efforts are part of a broad strategy by Vladimir Putin to undermine the rule of law and faith in democratic institutions globally. In order to learn from Russia's actions in the 2016 election and protect the United States in time for the upcoming elections, we need this information as soon as possible. Our committees are making policy and resource decisions related to deterrence, national security policy, election security and hardening our election infrastructure, strengthening our country's cybersecurity, improving our country's intelligence and counterintelligence posture, and helping our allies abroad to combat similar Russian behavior in their own countries. Identifying gaps and lessons learned from a thorough analysis of all facets of Russia's multi-pronged operation is fundamental to ensuring that our Committees have the information we need to legislate and conduct effective oversight in our respective areas of jurisdiction.

There is no more important task than safeguarding our country's democratic process. To discharge our constitutionally required responsibilities and protect our country moving forward, it is crucial that we learn from the Russian activities covered by the Special Counsel's investigation. With the Special Counsel's fact-gathering work now concluded, the Congress has a duty to make informed legislative, oversight, and authorization and appropriations decisions to safeguard the country. It is therefore essential for U.S. national security interests that the Department of Justice comply immediately with the joint request by the Chairs of the House Committees on the Judiciary, Oversight and Reform, Intelligence, Financial Services, Foreign Affairs, and Ways and Means.

Sincerely,



Adam Smith
Chairman
House Committee on Armed Services



Eliot L. Engel
Chairman
House Committee on Foreign Affairs



Adam Schiff
Chairman
Permanent Select Committee on Intelligence



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 17 2019

The Honorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith:

We write to acknowledge and confirm receipt of your April 9, 2019, letter pertaining to the Special Counsel's report. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committee's informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mary Blanche Hankey".

Mary Blanche Hankey
Chief of Staff and Counselor



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 17 2019

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Engel:

We write to acknowledge and confirm receipt of your April 9, 2019, letter pertaining to the Special Counsel's report. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committee's informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

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Mary Blanche Hankey
Chief of Staff and Counselor



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 17 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee in Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Schiff:

We write to acknowledge and confirm receipt of your April 9, 2019, letter pertaining to the Special Counsel's report. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committee's informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

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Very truly yours,

A handwritten signature in blue ink that reads "Mary Blanche Hankey".

Mary Blanche Hankey
Chief of Staff and Counselor

Congress of the United States
Washington, DC 20515

April 11, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Barr:

We have received your recent letters regarding the Special Counsel's report. We have also reviewed your testimony before the House and Senate appropriations committees on April 9 and 10. We write to you now, in advance of your expected release of a redacted version of Special Counsel Robert Mueller's report, to restate two important points.

First, as a matter of law, Congress is entitled to the full report—without redactions—as well as the underlying evidence. We require that information in order to discharge our constitutional obligations: to develop and pass legislation and to conduct thorough oversight of the Executive Branch. These responsibilities are most acute where they involve the alleged misconduct of the President of the United States. Indeed, because you have told us on several occasions that you will not indict the President for obstruction of justice and related crimes, it now falls to Congress to examine the President's conduct and, if necessary, to hold him accountable.

Second, the Department of Justice has an obligation to work with the relevant committees of the House and Senate to reach an accommodation on the full report and the underlying materials. Since your March 22 letter announcing the end of the Mueller investigation, our senior Members have written to you on numerous occasions. We have asked reasonable questions and raised legitimate concerns about your handling of this report. So far, we have received no direct response, and you have made no effort to work with us to accommodate our

concerns. This work should not wait until after you have provided a redacted report. It should start now.

You have outlined four kinds of information that you plan to redact from this report: grand jury information, classified information, information that may impede an ongoing investigation, and information that may affect the privacy and reputational interests of third parties. We acknowledge that there may be legitimate reasons for withholding some of this information from public view.


As recent precedent makes clear, however, the Department of Justice has no legitimate reason for withholding these materials from Congress. In every other instance where a federal grand jury was used to probe the alleged misconduct of a sitting president—namely, in the Watergate and Starr investigations—the Department of Justice worked with the relevant federal court to release the grand jury information to the House Judiciary Committee. That has not happened in this instance, despite numerous direct requests, nor have you provided us with any legitimate reason for failing to follow the Department's precedent.

With regard to the other areas of possible redaction noted in your March 29 letter, we note that the Department of Justice and the FBI provided nearly one million pages of material to the committees of jurisdiction related to a long list of largely discredited conspiracy theories about Hillary Clinton and about the origins of the Special Counsel's investigation—while that probe was ongoing. These documents included highly classified information, information and investigative records related directly to ongoing criminal and counterintelligence investigations, and reams of information that directly impacted the "privacy and reputational interests of third parties." The Department also made dozens of line personnel available for transcribed interviews. We expect that you will be just as forthcoming with us now and, accordance with those precedents, promptly produce each of these categories of information to Congress, as requested.

Finally, we would be remiss not to express profound concern about your comments before the Senate Appropriations Committee regarding your apparent review of the investigation into Russia's interference in the 2016 election. Your testimony raises questions about your independence, appears to perpetuate a partisan narrative designed to undermine the work of the Special Counsel, and serves to legitimize President Trump's dangerous attacks on the Department of Justice and the FBI.

We renew our request to work together prior to any release to ensure that Congress receives the full report and all of the underlying evidence. Thank you for your prompt attention to this urgent matter.

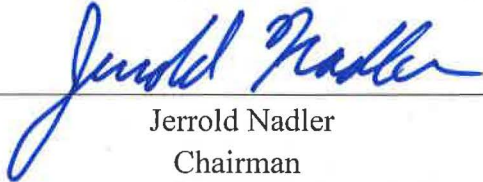
Sincerely,



Nancy Pelosi
Speaker of the House



Charles E. Schumer
Senate Democratic Leader



Jerrold Nadler
Chairman
House Committee on the Judiciary



Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary



Adam Schiff
Chairman
House Permanent Select Committee on Intelligence



Mark Warner
Vice Chairman
Senate Select Committee on Intelligence



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 2019

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

We write to acknowledge and confirm receipt of your April 11, 2019, letter pertaining to Special Counsel Robert Mueller's Investigation. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committees' informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Very truly yours,

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Mary Blanche Hankey
Chief of Staff and Counselor



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 2019

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

We write to acknowledge and confirm receipt of your April 11, 2019, letter pertaining to Special Counsel Robert Mueller's Investigation. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committees' informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

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Mary Blanche Hankey
Chief of Staff and Counselor



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

We write to acknowledge and confirm receipt of your April 11, 2019, letter pertaining to Special Counsel Robert Mueller's Investigation. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committee's informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

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Very truly yours,

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Mary Blanche Hankey
Chief of Staff and Counselor



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 2019

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

We write to acknowledge and confirm receipt of your April 11, 2019 letter pertaining to Special Counsel Robert Mueller's Investigation. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committee's informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

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Very truly yours,

A handwritten signature in blue ink that reads "MB Hankey".

Mary Blanche Hankey
Chief of Staff and Counselor



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Schiff:

We write to acknowledge and confirm receipt of your April 11, 2019, letter pertaining to Special Counsel Robert Mueller's Investigation. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committee's informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

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Mary Blanche Hankey
Chief of Staff and Counselor



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 2019

The Honorable Mark Warner
Vice Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

Dear Vice Chairman Warner:

We write to acknowledge and confirm receipt of your April 11, 2019, letter pertaining to Special Counsel Robert Mueller's Investigation. The Department of Justice (Department) appreciates the benefit of your views on this matter.

The Office of Legislative Affairs will share your letter with the appropriate components within the Department and will work to promptly respond. We endeavor to accommodate your Committee's informational needs, to the extent possible consistent with the Department's law enforcement, national security, and litigation responsibilities. In the interim, we invite your staff to reach out to Joanne Johnson, an attorney in this office who handles the matters raised in your letter. Ms. Johnson may be reached at 202-305-8313.

Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mary Blanche Hankey".

Mary Blanche Hankey
Chief of Staff and Counselor

SUBPOENA

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

To The Honorable William P. Barr, Attorney General of the United States

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

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

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

Place of production: 2138 Rayburn House Office Building, Washington, D.C., 20515
Date: May 1, 2019 Time: 10:00am

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

Place of testimony: _____
Date: _____ (and continuing until completed) Time: _____

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

Place of testimony: _____
Date: _____ Time: _____

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

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at
the city of Washington, D.C. this 18th day of April, 2019.

Attest:
Cheryl L Johnson
Clerk

Joseph R. Nadler
Chairman or Authorized Member

PROOF OF SERVICE

Subpoena for

The Honorable William P. Barr, Attorney General of the United States

Address United States Department of Justice

950 Pennsylvania Ave., NW, Washington DC, 20530

before the Committee on the Judiciary

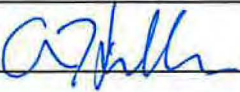
*U.S. House of Representatives
116th Congress*

Served by (print name) Aaron Hiller

Title Deputy Chief Counsel, House Judiciary Committee

Manner of service Electronic

Date 04/19/2019

Signature of Server 

Address 2138 Rayburn House Office Building

Washington, D.C. 20515

SCHEDULE

You are hereby required to produce the following in accordance with the attached Definitions and Instructions:

1. The complete and unredacted version of the report submitted on or about March 22, 2019 by Special Counsel Robert Mueller, pursuant to his authority under 28 C.F.R. § 600.8(c), entitled, "Report on the Investigation into Russian Interference in the 2016 Presidential Election" ("the Report"). This includes, but is not limited to, all summaries, exhibits, indices, tables of contents or other tables or figures, appendices, supplements, addenda or any other attachments whether written or attached in a separate electronic format.
2. All documents referenced in the Report.
3. All documents obtained and investigative materials created by the Special Counsel's Office.

DEFINITIONS

As used in this subpoena, the following terms shall be interpreted in accordance with these definitions:

1. "And," and "or," shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
2. "Any" includes "all," and "all" includes "any."
3. "Communication(s)" means the transmittal of information by any means, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email, text message, instant message, MMS or SMS message, encrypted message, message application, social media, or otherwise.
4. "Employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
5. "Document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto.
6. "Documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party. This includes but is not limited to documents that are or were held by your attorneys.
7. "Each" shall be construed to include "every," and "every" shall be construed to include "each."
8. "Including" shall be construed broadly to mean "including, but not limited to."
9. "Investigative materials" means any document created, generated, authored, or obtained by the Special Counsel's Office pursuant to the Special Counsel's Investigation, including but not limited to, prosecution memoranda, FBI 302 interview reports, signals intelligence, witness interviews, written interrogatories and responses, search warrants, subpoenas, Foreign

Intelligence Surveillance Act applications, notes, transcripts, reports, whether classified or unclassified.

10. "Person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, division, departments, joint ventures proprietorships, syndicates, or other legal business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units, thereof.
11. "Referenced" means cited, quoted, mentioned, described, alluded to, contained, incorporated, reproduced, or identified in any manner whatsoever.
12. "Relating to" shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, comprising, showing, setting forth, considering, recommending, concerning, or pertinent to that subject in any manner whatsoever.
13. "Special Counsel's Office" means the office created pursuant to Department of Justice Order No. 3915-17 issued by the Acting Attorney General on May 17, 2017 appointing Robert S. Mueller III as Special Counsel, and its employees.
14. "Special Counsel's Investigation" means the investigation conducted by the Special Counsel's Office pursuant to Department of Justice Order No. 3915-17 issued by the Acting Attorney General on May 17, 2017.
15. "The Report" means the complete and unredacted version of the report submitted on or about March 22, 2019 by Special Counsel Robert Mueller, pursuant to his authority under 28 C.F.R. § 600.8(c), entitled, "Report on the Investigation into Russian Interference in the 2016 Presidential Election."

INSTRUCTIONS

1. In complying with this subpoena, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you. If a document is referenced in the Report in part, you should produce it in full in a complete and unredacted form.
2. Documents responsive to the subpoena should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that a document is withheld in full or in part on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author, addressee, and any other recipient(s); (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any law, statute, rule, policy or regulation.
4. Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each document prior to the subpoena compliance date.
5. In complying with the subpoena, be apprised that the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; or any purported contractual privileges, such as non-disclosure agreements.
6. Any assertion of any such non-constitutional legal bases for withholding documents or other materials, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee has consented to recognize the assertion as valid.
7. Pursuant to 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
8. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
9. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this subpoena, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party, including, but not limited to (a) how the document was disposed of; (b) the name, current address, and telephone number of the person who currently has possession, custody, or

control over the document; (c) the date of disposition; and (d) the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

10. If any document responsive to this subpoena cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.
11. In the event that any entity, organization, or individual named in the subpoena has been, or is currently, known by any other name, the subpoena should be read also to include such other names under that alternative identification.
12. All documents should be produced with Bates numbers affixed. The Bates numbers must be unique, sequential, fixed-length numbers and must begin with a prefix referencing the name of the producing party (e.g., ABCD-000001). This format must remain consistent across all productions. The number of digits in the numeric portion of the format should not change in subsequent productions, nor should spaces, hyphens, or other separators be added or deleted. All documents should be Bates-stamped sequentially and produced sequentially.
13. Documents produced pursuant to this subpoena should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this subpoena should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this subpoena was issued. Indicate the office or division and person from whose files each document was produced.
14. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
15. Produce electronic documents as created or stored electronically in their original electronic format. Documents produced in electronic format should be organized, identified, and indexed electronically, in a manner comparable to the organization structure called for in Instruction 13 above.
16. Data may be produced on CD, DVD, memory stick, USB thumb drive, hard drive, or via secure file transfer, using the media requiring the least number of deliverables. Label all media with the following:
 - a. Production date;
 - b. Bates range;
 - c. Disk number (1 of X), as applicable.
17. If a date or other descriptive detail set forth in this subpoena referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

18. The subpoena is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
19. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. Production sets shall be delivered to the Majority Staff in Room 2138 of the Rayburn House Office Building and the Minority Staff in Room 2142 of the Rayburn House Office Building. You should consult with Committee Majority Staff regarding the method of delivery prior to sending any materials.
20. If compliance with the subpoena cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production. In the event that any responsive documents or other materials contain classified information, please immediately contact Committee staff to discuss how to proceed.
21. Upon completion of the document production, please submit a written certification, signed by you or by counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the subpoena have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's subpoena or in anticipation of receiving the Committee's subpoena, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, or otherwise identified as provided herein.
22. A cover letter should be included with each production including the following information:
 - a. List of each piece of media (hard drive, thumb drive, DVD or CD) included in the production by the unique number assigned to it, and readily apparent on the physical media;
 - b. List of fields in the order in which they are listed in the metadata load file;
 - c. The paragraph(s) and/or clause(s) in the Committee's subpoena to which each document responds;
 - d. Time zone in which emails were standardized during conversion (email collections only);
 - e. Total page count and bates range for the entire production, including both hard copy and electronic documents.
23. You need not produce documents which are readily publicly available.
24. As to Item 3 in the Schedule, please consult with the Committee to determine a reasonable time period for compliance.



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 7, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

As you know, the Attorney General has repeatedly sought to accommodate the interests of the House Committee on the Judiciary in the investigation conducted by Special Counsel Robert S. Mueller, III. On April 18, 2019, the Attorney General voluntarily disclosed to Congress the Special Counsel's report, which was intended to be "confidential" under the applicable regulations, with as few redactions as possible, consistent with the law and long-established confidentiality interests of the Executive Branch. He also made available to you and other congressional leaders a minimally redacted version of the report that excluded only grand-jury information, which could not lawfully be shared with Congress. In response, you refused even to review the minimally redacted report, and you immediately served a subpoena, dated April 18, 2019, demanding production of the fully unredacted report and the Special Counsel's entire investigative files, which consist of millions of pages of classified and unclassified documents, bearing upon more than two dozen criminal cases and investigations, many of which are ongoing.

Since then, the Department of Justice has offered further accommodations to the Committee. In particular, the Department offered to expand the number of staff members who may review the minimally redacted report; to allow Members of Congress who have reviewed the minimally redacted report to discuss the material freely among themselves; and to allow Members to take and retain their notes following their review. We expressed our hope that these further accommodations would prompt you and your colleagues actually to review the minimally redacted report, which would allow the parties to engage in meaningful discussions regarding possible further accommodations of the Committee's additional expansive requests. We further proposed a framework for those discussions, and made clear that we were open to conducting them on an expedited basis.

Unfortunately, the Committee has responded to our accommodation efforts by escalating its unreasonable demands and scheduling a committee vote to recommend that the Attorney General be held in contempt of Congress. In particular, the Committee has demanded that the Department authorize review of the minimally redacted report by all 41 members of the Committee, as well as all members of the House Permanent Select Committee on Intelligence,

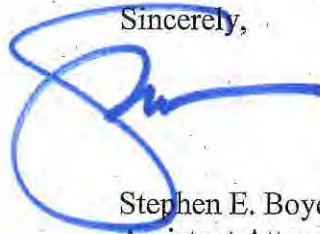
and additional staff members. As we have explained, however, doing so would force the Department to risk violating court orders and rules in multiple ongoing prosecutions, as well as risk the disclosure of information that could compromise ongoing investigations. In addition, you have demanded that the Department join in a request that a court grant the Committee access to grand-jury material protected by Federal Rule of Criminal Procedure 6(e), even though we have explained that such a request would force the Department to ignore existing law. Such unreasonable demands, together with the Committee's precipitous threat to hold the Attorney General in contempt, are a transparent attempt to short-circuit the constitutionally mandated accommodation process and provoke an unnecessary conflict between our respective branches of government. They are also counterproductive. They will not further the Committee's interests in obtaining the requested information.

In the face of the Committee's threatened contempt vote, the Attorney General will be compelled to request that the President invoke executive privilege with respect to the materials subject to the subpoena. I hereby request that the Committee hold the subpoena in abeyance and delay any vote on whether to recommend a citation of contempt for noncompliance with the subpoena, pending the President's determination of this question.

This request is consistent with long-standing policy of the Executive Branch about congressional requests for information implicating executive privilege. *See* President Ronald Reagan, Memorandum for the Heads of Executive Departments and Agencies, Procedures Governing Responses to Congressional Requests for Information 2 (Nov. 4, 1982) (directing executive agencies to "request the Congressional body to hold its request for the information in abeyance" in order to "protect the privilege pending a Presidential decision"). Regrettably, the Committee has made this request necessary by threatening to pretermitt the constitutionally mandated accommodation process between the branches and to hold a vote on contempt tomorrow morning.

This request is not itself an assertion of executive privilege. If the Committee decides to proceed in spite of this request, however, the Attorney General will advise the President to make a protective assertion of executive privilege over the subpoenaed material, which undoubtedly includes material covered by executive privilege. President Clinton, acting on the advice of Attorney General Janet Reno, made such a protective assertion of privilege in similar circumstances. *See Protective Assertion of Executive Privilege Regarding White House Counsel's Office Documents*, 20 Op. O.L.C. 1 (1996). We remain open to further discussions with the Committee, and we hope that the Committee does not make it necessary for the President to take that step tomorrow.

Sincerely,



Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 8, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

We are disappointed that you have rejected the Department of Justice's request to delay the vote of the Committee on the Judiciary on a contempt finding against the Attorney General this morning. By doing so, you have terminated our ongoing negotiations and abandoned the accommodation process with respect to your April 18, 2019, subpoena of confidential Department of Justice materials related to the investigation conducted by Special Counsel Robert S. Mueller, III. As we have repeatedly explained, the Attorney General could not comply with your subpoena in its current form without violating the law, court rules, and court orders, and without threatening the independence of the Department of Justice's prosecutorial functions. Despite this, we have attempted to engage with the Committee in good faith in an effort to accommodate your stated interest in these materials. Unfortunately, rather than allowing negotiations to continue, you scheduled an unnecessary contempt vote, which you refused to postpone to allow additional time for compromise.

Accordingly, this is to advise you that the President has asserted executive privilege over the entirety of the subpoenaed materials. As I indicated in my letter to you last night, this protective assertion of executive privilege ensures the President's ability to make a final decision whether to assert privilege following a full review of these materials. *See Protective Assertion of Executive Privilege Regarding White House Counsel's Office Documents*, 20 Op. O.L.C. 1 (1996) (opinion of Attorney General Janet Reno). Regrettably, you have made this assertion necessary by your insistence upon scheduling a premature contempt vote.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Boyd", written over the word "Sincerely,".

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member

United States Senate

April 25, 2019

VIA ELECTRONIC DELIVERY

The Honorable William Barr
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Barr:

The electronic portable document format (PDF) version of the "Report On The Investigation Into Russian Interference In The 2016 Presidential Election," often referred to as the "Mueller Report," was one of the most highly-awaited government publications to be released online in many years. Every American should be empowered to review the PDF Mueller Report.

However, the current PDF file of the Mueller Report appears to violate statutory requirements under Section 508 of the Rehabilitation Act of 1973 and regulations and policies promulgated by the Access Board, the National Archives and Records Administration (NARA) and even the U.S. Department of Justice (DOJ). In addition, the PDF does not follow electronic document publication best practices employed by the U.S. Government Publishing Office (GPO), as it is not digitally signed nor conforms to ISO 19005 (PDF/A), the archival standard for this format.

The DOJ website clearly states, "Section 508 requires that Federal agencies' electronic and information technology is accessible to people with disabilities, including employees and members of the public." Accordingly, I strongly urge that DOJ swiftly fix this deficiency by updating the PDF Mueller Report to comply with all applicable accessibility and archival laws, regulations and policies.

No American should be deprived the right to read an accurate version of the Mueller Report because that individual lives with a disability that requires the use of assistive technology for reading. As the entity responsible for enforcing critical civil rights statutes, such as the Americans with Disabilities Act, DOJ should always lead by example in not only meeting the letter of the law, but the spirit of Federal accessibility requirements. Thank you in advance for your consideration of my request, and I look forward to learning about the actions DOJ will take to efficiently fix this problem.

Sincerely,



Tammy Duckworth
United States Senator



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 23 2019

The Honorable Tammy Duckworth
United States Senate
Washington, DC 20510

Dear Senator Duckworth:

This responds to your letter dated April 25, 2019, regarding the Department of Justice's (Department) online publication of the Report on the Investigation into Russian Interference in the 2016 Presidential Election (the Report).

The Department appreciates your views on this matter and shares your view that every American should be empowered to review online PDF reports, as is outlined in Section 508 of the Rehabilitation Act of 1953 (Section 508). Given the extraordinary public interest in its contents, the Report was posted to the Department's website while it was in the process of being made compliant with Section 508. The following language was also included below the link to the report to provide notice of the additional assistance available:

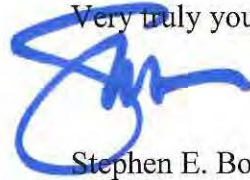
The Department recognizes that these documents may not yet be in an accessible format. If you have a disability and the format of any material on the site interferes with your ability to access some information, please email the Department of Justice webmaster [link embedded]. To enable us to respond in a manner that will be of most help to you, please indicate the nature of the accessibility problem, your preferred format (electronic format (ASCII, etc.), standard print, large print, etc.), the web address of the requested material, and your full contact information, so we can reach you if questions arise while fulfilling your request.

You will be pleased to know that a fully accessible version of the Report was posted on Monday, April 22, at 2:51 p.m.

You also expressed concern that the PDF does not follow electronic document publication best practices employed by the U.S. Government Publishing Office (GPO). The manner in which the Department received this report precluded our web team from adding digital signatures for the Acting Attorney General and the President.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'S. Boyd', is written over the closing 'yours'.

Stephen E. Boyd
Assistant Attorney General



Nancy Pelosi
Speaker of the House

May 1, 2019

The Honorable William Barr
Attorney General of the United States of America
United States Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530

Dear Mr. Attorney General:

It is my understanding that on Monday, April 29th a group of staff members from both the Senate and the House met with several of your officials from the Department of Justice and the Federal Bureau of Investigation for the purpose of discussing some initial reasonable accommodations for providing better access by the Congress to the unredacted version of the Mueller Report. My sense is that ideas were raised that your representatives would present to you for consideration. This letter is not meant to be a formal overall proposal – it is instead meant to address ideas that possibly provide fruitful avenues to explore, which can then lead to later, more informed discussions and accommodations.

As was made clear by Congressional staff in the meeting on Monday, we have serious concerns about the extremely limited access that has been proposed for Members of Congress.

The DOJ and FBI representatives raised concerns about trying to protect facts about ongoing law enforcement investigations. Congress obviously has no desire to do anything that would hinder such investigations. Congressional staff noted, though, that under Department of Justice regulations “Members of Congress . . . do not require a determination of their eligibility for access to classified information by the Department.” 28 C.F.R. 17.46(c). The Justice Department has thus determined that Members of Congress are trustworthy, based solely on the fact that they have been elected to Congress. This view would seem to carry over to other areas as well – if Members of Congress can be trusted with information the disclosure of which could cause serious damage to the national security of the United States, they surely should also be trusted to protect law enforcement investigatory information.

Congress takes pride in the fact that Congress regularly safely stores highly classified and other sensitive information in a secure environment here in the U.S. Capitol complex. Thus, if sensitive material from the Mueller Report is provided to Congress and requires restricted access, that is something done here all the time.

The DOJ and FBI representatives also raised concerns that it might be a violation of the law for grand jury material to be provided to Members of Congress. While this issue could be debated, I believe we all agree that there would be no violation if a court orders disclosure (as has been done in the past in analogous circumstances). Therefore, I propose that our offices jointly approach an appropriate court in order to obtain a limited disclosure order. Another possibility would be for Congress to make such a filing in court, stating that you have no objection to an order being granted.

Further, I propose that once Members of Congress gain access to the less redacted version of the Mueller Report, Congress would be able to use that material, if appropriate, to seek a court order for further disclosure. As a concession to you, such use in court would be under seal, thereby preserving its confidentiality. And, if this material were cited in discussions with you for further justified disclosures, that use could also be done confidentially.

I hope that these initial proposals will be given serious consideration by you so that we can work together productively toward an eventual goal of providing Congress and the American people with the most material possible from the Mueller Report.

Thank you for your consideration of these proposals.

Sincerely,



NANCY PELOSI
Speaker of the House

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CHAIRMAN

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LUCY McBATH, Georgia
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MADELEINE DEAN, Pennsylvania
DEBBIE MUCARSEL-POWELL, Florida
VERONICA ESCOBAR, Texas

ONE HUNDRED SIXTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951
<http://www.house.gov/judiciary>

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RANKING MEMBER

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May 3, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Barr:

I write to respond to the Department's letter of May 1, 2019 refusing to comply with the Judiciary Committee's subpoena for the unredacted Mueller report, the documents it cites, and other underlying materials. As you know, the Committee has repeatedly engaged with your staff in writing, by telephone and in person to discuss a way forward on the subpoena.

At the outset, we note that the Department has never explained why it is willing to allow only a small number of Members to view a less-redacted version of the report, subject to the condition that they cannot discuss what they have seen with anyone else. The Department also remains unwilling to work with the Committee to seek a court order permitting disclosure of materials in the report that are subject to Federal Rule of Criminal Procedure 6(e). And the Department has offered no reason whatsoever for failing to produce the evidence underlying the report, except for a complaint that there is too much of it and a vague assertion about the sensitivity of law enforcement files.

Nonetheless, the Committee remains willing to negotiate a reasonable accommodation with the Department. First, the Committee requests that the Department reconsider its refusal to allow all Members of Congress and appropriate staff to view redacted portions of the report that are not subject to Rule 6(e) in a secure location in Congress. As the Committee has already indicated, Congress has ample means of providing for safe storage of these materials; and it is routinely entrusted with the responsibility to protect classified and other sensitive information.

Second, the Committee renews its request that the Department work jointly with Congress to seek a court order permitting disclosure of materials covered by Rule 6(e). The Department has asserted that Rule 6(e) “contains no exception” that would permit such disclosure, but courts have provided Rule 6(e) materials to Congress under the rule’s “judicial proceeding” exception in the past,¹ and other exceptions may also be available.²

Third, the Committee is willing to prioritize a specific, defined set of underlying investigative and evidentiary materials for immediate production. As indicated in item two of the Committee’s subpoena, the Committee has a heightened interest in obtaining access to the investigative and evidentiary materials specifically cited in the report. This discrete and readily identifiable set of documents includes reports from witness interviews (commonly known as “302s”) and items such as contemporaneous notes taken by witnesses of relevant events. Since these materials are publicly cited and described in the Mueller report, there can be no question about the Committee’s need for and right to this underlying evidence in order to independently evaluate the facts that Special Counsel Mueller uncovered and fulfill our constitutional duties. As the Mueller report makes clear, this need is amplified where, as here, Department policy prohibits the indictment of a sitting President and instead relies upon Congress to evaluate whether constitutional remedies are appropriate. In addition, to the extent these materials are classified or contain sensitive law enforcement information, we are prepared to maintain their confidentiality as we regularly do with similar information.

Fourth, as we have already indicated in the instructions to the subpoena, we are also prepared to discuss limiting and prioritizing our request in item three of the subpoena for other underlying evidence obtained by the Special Counsel’s office.

Accommodation requires negotiation that takes into account the legitimate interests and responsibilities of both Congress and the Department. Your proposed conditions are a departure from accommodations made by previous Attorneys General of both parties. As recently as last Congress, the Department produced more than 880,000 pages of sensitive investigative materials pertaining to its investigation of Hillary Clinton, as well as much other material relating to the then-ongoing Russia investigation. That production included highly classified material, notes from FBI interviews, internal text messages, and law enforcement memoranda. The volume of documents cited in the Special Counsel’s report is surely smaller, and the Committee is willing

¹ See, e.g., *In re Grand Jury Proceedings of Grand Jury No. 81-1 (Miami)*, 669 F. Supp. 1072, 1075-76 (S.D. Fla. 1987).

² See Fed. R. Crim. P. 6(e)(3)(D) (allowing disclosure of grand jury materials “involving foreign intelligence, counterintelligence . . . , or foreign intelligence information” to “any federal law enforcement, intelligence, . . . or national security official to assist the official receiving the information in the performance of that official’s duties”); *id.* (allowing disclosure of grand jury materials relating to “a threat of attack or other grave hostile acts of a foreign power or its agent . . . , or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by its agent” to “any appropriate federal . . . official”).

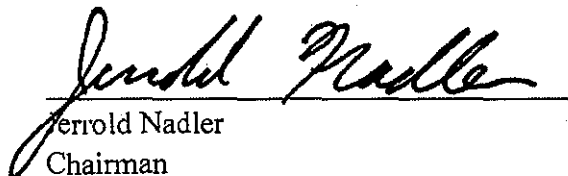
to work with the Department to prioritize production of materials even within that defined category. Additionally, in the most recent prior instance in which the Department conducted an investigation of a sitting President, Kenneth Starr produced a 445-page report to Congress along with 18 boxes of accompanying evidence.

Lastly, it cannot go unremarked that, in refusing to comply with congressional oversight requests, the Department has repeatedly asserted that Congress's requests do not serve "legitimate" purposes. This is not the Department's judgment to make. Congress's constitutional, oversight and legislative interest in investigating misconduct by the President and his associates cannot be disputed. The Committee has ample jurisdiction under House Rule X(1) to conduct oversight of the Department, undertake necessary investigations, and consider legislation regarding the federal obstruction of justice statutes, campaign-related crimes, and special counsel investigations, among other things.

The Committee is prepared to make every realistic effort to reach an accommodation with the Department. But if the Department persists in its baseless refusal to comply with a validly issued subpoena, the Committee will move to contempt proceedings and seek further legal recourse.

We request a response by 9 a.m. on Monday, May 6, 2019. Please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerrold Nadler", is written over a horizontal line.

Jerrold Nadler
Chairman

House Committee on the Judiciary

cc: The Hon. Doug Collins
Ranking Member, House Committee on the Judiciary



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

I write in response to your May 3, 2019 letter to the Attorney General. We appreciate the House Committee on the Judiciary's (Committee) offer to negotiate a reasonable accommodation to the demands made by the April 18, 2019 subpoena, and we emphasize the Department of Justice's (Department) continued willingness to engage in good faith with the Committee on these issues consistent with its obligations under the law. We were disappointed that the Committee took initial steps this morning toward moving forward with the contempt process.

The Department reiterates its concerns with the Committee's rush to issue a subpoena immediately after the Attorney General took the extraordinary step of publicly disclosing, with as few redactions as possible, the confidential report of Special Counsel Robert S. Mueller, III, and after he took the further step of making an even-less-redacted version available to a bipartisan group of congressional leaders. The Committee did so even though you have yet to take advantage of the Department's offer to review the less-redacted version of the Special Counsel's report—which naturally raises questions about the sincerity of the Committee's interest in and purported need for the redacted material. Your refusal to review the less-redacted report also hinders our ability to engage in a meaningful discussion about what specific information Congress needs in furtherance of its legitimate legislative activities. Furthermore, the Committee has not articulated any legitimate basis for requesting the law enforcement documents that bear upon more than two dozen criminal cases and investigations, including ongoing matters, and does not identify any available legal basis to authorize the Department to ask a court to share materials protected by Rule 6(e) of the Federal Rules of Criminal Procedure. Indeed, the Committee fails even to address the D.C. Circuit's recent decision on this question. *See McKeever v. Barr*, 920 F.3d 842, 844–45 (D.C. Cir. 2019).

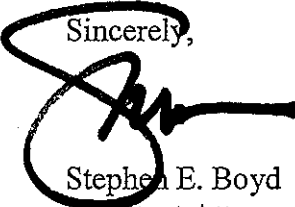
Nonetheless, as we have made clear from the outset, the Department welcomes the Committee's offer to attempt to negotiate an acceptable accommodation of our respective interests on these issues. We are prepared to discuss the matters raised in your letter, including your request to provide greater access to the less-redacted version of the report to additional Members of Congress and staff, as well as prioritizing review and possible disclosure of certain materials cited

The Honorable Jerrold Nadler
Page Two

in the Special Counsel's report, provided that such access and disclosure is done lawfully and in a manner that protects long-established Executive Branch confidentiality interests.

To that end, we invite members of your and the Ranking Member's staff to the Department on the afternoon of Wednesday, May 8, 2019 to negotiate an accommodation that meets the legitimate interests of each of our coequal branches of government. In order to make the meeting productive, we believe that it would make sense for you to at least review the less-redacted version of the report in advance, and we will take steps to ensure that it remains available to you prior to the meeting. We are available to discuss further details of the meeting with you in advance.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Boyd", written over a circular stamp or seal.

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 8, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Barr:

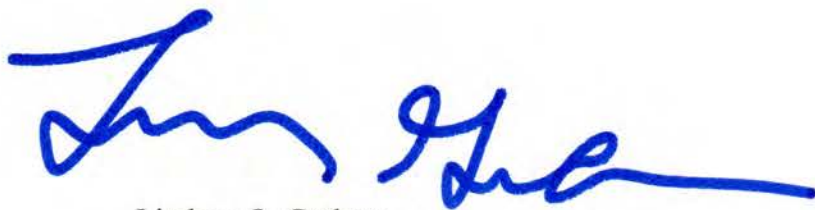
Thank you for your testimony at the Senate Committee on the Judiciary hearing entitled "The Department of Justice's Investigation of Russian Interference with the 2016 Presidential Election." Attached are written questions from members. We look forward to including your answers to these questions, along with your hearing testimony, in the formal Committee record.

Please help us complete a timely and accurate hearing record by sending an electronic version of your responses to Jason Covey, Hearing Clerk, Senate Judiciary Committee, at Jason_Covey@judiciary-rep.senate.gov, no later than **May 22, 2019**.

Where circumstances make it impossible to comply with the two-week period provided for submission of answers, witnesses may explain in writing and request an extension of time to reply.

Again, thank you for your participation. If you have any questions, please contact Jason Covey at (202) 224-5225.

Sincerely,



Lindsey O. Graham
Chairman

William P. Barr
Attorney General
U.S. Department of Justice
Questions for the Record
Submitted May 8, 2019

QUESTIONS FROM SENATOR BOOKER

1. At last week’s hearing, I asked you about the Trump campaign’s sharing of polling information with a Russian operative—in particular, how former Trump campaign chairman Paul Manafort shared internal polling data with Konstantin Kilimnik. The FBI believes Mr. Kilimnik has ties to Russian intelligence,¹ and the Special Counsel’s Office gathered substantial evidence to support that assessment.² This was front-page news when it was first reported.³ It was prominently featured in Special Counsel Mueller’s report, including in the executive summary.⁴

When I referenced this issue, you responded, “What information was shared?” When I told you that polling data had been shared, you responded, “With who?”⁵

Special Counsel Mueller’s report documents Mr. Manafort’s contacts with Mr. Kilimnik.⁶ The report states, among other things:

Manafort had connections to Russia through his prior work for Russian oligarch Oleg Deripaska and later through his work for a pro-Russian regime in Ukraine. . . . Manafort instructed Rick Gates, his deputy on the Campaign and a longtime employee, to provide Kilimnik with updates on the Trump Campaign—including internal polling data, although Manafort claims not to recall that specific instruction. Manafort expected Kilimnik to share that information with others in Ukraine and with Deripaska. Gates periodically sent such polling data to Kilimnik during the campaign.⁷

Moreover, as the report notes, “in February 2019, the U.S. District Court for the District of Columbia found that Manafort lied to the Office and the grand jury concerning his interactions and communications with Konstantin Kilimnik about Trump Campaign polling data and a peace plan for Ukraine.”⁸

¹ Vol. I, p. 129.

² Vol. I, pp. 133-34.

³ See, e.g., Sharon LaFraniere, Kenneth P. Vogel & Maggie Haberman, *Manafort Accused of Sharing Trump Polling Data with Russian Associate*, N.Y. TIMES (Jan. 8, 2019), <https://www.nytimes.com/2019/01/08/us/politics/manafort-trump-campaign-data-kilimnik.html>.

⁴ Vol. I, pp. 6-7, 9-10.

⁵ *The Department of Justice’s Investigation of Russian Interference with the 2016 Presidential Election: Hearing Before the S. Comm. on the Judiciary*, 116th Cong. (2019) [hereinafter *Hearing*] (statement of William P. Barr, Att’y Gen., U.S. Dep’t of Justice).

⁶ Vol. I, pp. 6-7, 9-10, 129-31, 135-44.

⁷ Vol. I, p. 129.

⁸ Vol. I, pp. 9-10.

- a. At the time of last week’s hearing, were you aware of Mr. Manafort’s sharing of internal polling data with Mr. Kilimnik, as documented in Special Counsel Mueller’s report?
- b. If you were aware of this issue, why did you profess to be confused at the hearing about what information was shared and with whom?
- c. Now that you have been directed to this passage in the report, please answer the original question from the hearing. You said at your April 18, 2019, press conference:

But thanks to the Special Counsel’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. That is something that all Americans can and should be grateful to have confirmed.⁹

Do you believe that the American people should be “grateful” that Special Counsel Mueller’s investigation found that President Trump’s former campaign manager “had caused internal polling data to be shared with” an individual linked to Russian intelligence, and that “the sharing continued for some period of time after their August [2016] meeting”¹⁰?

- d. The report also states: “Because of questions about Manafort’s credibility and our limited ability to gather evidence on what happened to the polling data after it was sent to Kilimnik, the Office could not assess what Kilimnik (or others he may have given it to) did with it.”¹¹ Did the Special Counsel’s Office make any requests to the Department of Justice, the FBI, or any other federal agency for assistance to help “gather evidence on what happened to the polling data after it was sent to Kilimnik”? If applicable, please indicate the status of any such requests.
2. At last week’s hearing, I also asked you about the finding in Special Counsel Mueller’s report that President Trump’s campaign sought to benefit from material and information that was stolen by a foreign power in an effort to influence an election. You responded, “I am not sure what you mean by ‘seek to benefit.’”¹²

This terminology was drawn directly from the report itself—in fact, from the first page of

⁹ Press Conference, William P. Barr, Att’y Gen., U.S. Dep’t of Justice, Remarks on the Release of the Report on the Investigation into Russian Interference in the 2016 Presidential Election (Apr. 18, 2019) [hereinafter Barr Press Conference], <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-release-report-investigation-russian>.

¹⁰ Vol. I, p. 7.

¹¹ Vol. I, p. 131.

¹² *Hearing, supra* note 5.

text in the report. The report states that “the [Trump] Campaign expected it would *benefit* electorally from information stolen and released through Russian efforts.”¹³

- a. At the time of last week’s hearing, were you aware of this key statement in the report?
 - b. Your March 24, 2019, letter to Congress actually quoted from this very sentence in the report identifying the electoral “benefit” sought by the Trump campaign— although your letter omitted this portion of the sentence.¹⁴ Given that you had specifically cited this very sentence, why did you profess to be confused at the hearing about what “benefit” the Trump campaign was seeking from information stolen and released through Russian efforts?
 - c. Now that you have been directed to this passage in the report, please answer the original question from the hearing. As noted above, you said at your April 18 press conference that “all Americans can and should be grateful” that “the Russian operatives who perpetrated these schemes did not have the cooperation of President Trump or the Trump campaign.”¹⁵ Do you believe that the American people should be “grateful” that Special Counsel Mueller’s investigation “identified numerous links between individuals with ties to the Russian government and individuals associated with the Trump Campaign,”¹⁶ and that “the Campaign expected it would benefit electorally from information stolen and released through Russian efforts”¹⁷?
3. On March 24, 2019, you wrote a four-page letter to the Chairs and Ranking Members of the Senate and House Judiciary Committees providing your characterization of the key conclusions of Special Counsel Mueller’s report. Your letter has been widely described as a summary, including by Special Counsel Mueller himself, although you have disputed that description. In that letter, you wrote:

The Special Counsel’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 U.S. presidential election. As the report states: “[T]he investigation did not establish that members of the Trump campaign conspired or coordinated with the Russian government in its election interference activities.”¹⁸

¹³ Vol. I, pp. 1-2 (emphasis added).

¹⁴ Letter from William P. Barr, Att’y Gen., U.S. Dep’t of Justice, to Senate & House Judiciary Comms. 2 (Mar. 24, 2019) [hereinafter Barr Letter], <https://www.justice.gov/ag/page/file/1147981/download>.

¹⁵ Barr Press Conference, *supra* note 9.

¹⁶ Vol. I, p. 9.

¹⁷ Vol. I, pp. 1-2.

¹⁸ Barr Letter, *supra* note 14, at 2.

However, your quotation from the report lacks critical context. For instance, that passage in the report states:

*The investigation also identified numerous links between the Russian government and the Trump campaign. Although the investigation established that the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome, and that the campaign expected it would benefit electorally from information stolen and released through Russian efforts, the investigation did not establish that members of the Trump campaign conspired or coordinated with the Russian government in its election interference activities.*¹⁹

- a. Why did your letter exclude this key context in the report’s own language?
 - b. Do you believe failing to provide the proper context of the language you quoted was in any way misleading to Congress and the American public? Please explain your answer.
 - c. Would it be unreasonable for someone to believe that your failure to provide the context of the entire sentence and the preceding sentence was misleading?
4. Have you read the entirety of Special Counsel Mueller’s report? If not, please identify the specific portions of the report that you did read before sending your March 24 letter stating that “the evidence developed during the Special Counsel’s investigation is not sufficient to establish that the President committed an obstruction-of-justice offense.”²⁰
5. At your April 18 press conference, you excused obstructive actions by President Trump on the ground that he 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.”²¹
- a. Please provide a set of legal authorities, with relevant explanations, to support your claim that emotions such as frustration and anger can excuse potential obstruction of justice.
 - b. Please describe the fact pattern and reasoning of the most apposite precedent that supports your claim that emotions such as frustration and anger can excuse potential obstruction of justice.
 - c. Special Counsel Mueller’s report states: “Although the events we investigated involved discrete acts—*e.g.*, the President’s statement to Comey about the Flynn investigation, his termination of Comey, and his efforts to remove the Special Counsel—it is important to view the President’s pattern of conduct as a whole. That

¹⁹ Vol. I, pp. 1-2 (emphasis added).

²⁰ Barr Letter, *supra* note 14, at 3.

²¹ Barr Press Conference, *supra* note 9.

pattern sheds light on the nature of the President’s acts and the inferences that can be drawn about his intent. . . . Our investigation found multiple acts by the President that were capable of exerting undue influence over law enforcement investigations, including the Russian-interference and obstruction investigations.”²²

In your assessment of the applicable law, can emotions like frustration and anger excuse an extensive series of potentially obstructive acts committed over a period of months or years? Please identify any supportive legal authorities.

6. At your April 18 press conference, you claimed that “the White House fully cooperated with the Special Counsel’s investigation.”²³ Your statement contrasts sharply with several statements contained in Special Counsel Mueller’s report.
 - a. According to the report, President Trump made an array of “efforts to remove the Special Counsel”²⁴ and to “curtail the Special Counsel’s investigation.”²⁵ In your view, did that constitute full cooperation? Please explain your answer.
 - b. President Trump “declined” to sit down for an in-person interview with the Special Counsel’s Office, and he then provided written responses that the Special Counsel “viewed . . . to be inadequate.”²⁶ Among other things, in 19 out of his 22 written responses, President Trump claimed not to remember or recall certain information relevant to the questions.²⁷ In your view, did that constitute full cooperation? Please explain your answer.
 - c. As detailed in Special Counsel Mueller’s report, President Trump discouraged witnesses from “flipping” and cooperating with the government, and he also dangled the possibility of future pardons.²⁸ In your view, did that constitute full cooperation? Please explain your answer.
 - d. The report describes how “news of the obstruction investigation prompted the President to call [White House Counsel Don] McGahn and seek to have the Special Counsel removed”—even though “the Department of Justice had already cleared the Special Counsel’s service and the President’s advisors had told him that the claimed conflicts of interest were ‘silly’ and did not provide a basis to remove the Special Counsel.”²⁹ In your view, did that constitute full cooperation? Please explain your answer.
 - e. The report recounted an instance in which President Trump met one-on-one in the Oval Office with former campaign manager Corey Lewandowski and directed him to

²² Vol. II, p. 157.

²³ Barr Press Conference, *supra* note 9.

²⁴ Vol. II, p. 77-90.

²⁵ Vol. II, pp. 90-98.

²⁶ App. C, p. C-2.

²⁷ App. C, pp. C-11 to C-23.

²⁸ Vol. II, p. 120-28, 131-33 (Michael Flynn, Paul Manafort); Vol. II, pp. 134-58 (Michael Cohen).

²⁹ Vol. II, p. 90.

deliver a dictated message to Attorney General Jeff Sessions directing him to say that President Trump “hasn’t done anything wrong” and that the Special Counsel’s investigation would focus on “future elections” moving forward.³⁰ In your view, did that constitute full cooperation? Please explain your answer.

7. In your March 24 letter, you “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.”³¹ Similarly, at last week’s hearing, you said that, “generally speaking, an obstruction case typically has two aspects to it. One, there’s usually an underlying criminality.”³²

a. The Department of Justice’s *Justice Manual* says the following about the federal obstruction-of-justice statutes:

Sections 1512 and 1513 . . . focus instead on the intent of the wrongdoer. If the illegal act was intended to affect the future conduct of any person in connection with his/her participation in Federal proceedings or his/her communication of information to Federal law enforcement officers, it is covered by 18 U.S.C. § 1512. If, on the other hand, the illegal act was intended as a response to past conduct of that nature, it is covered by 18 U.S.C. § 1513.³³

This guidance does not reference the existence of an underlying crime. The *Justice Manual* also notes, “Several of the obstruction of justice provisions prohibit ‘endeavors’ to obstruct.”³⁴ Indeed, the manual continues, “‘endeavor’ is broader than ‘attempt,’” and “an endeavor to obstruct justice need not be successful to be criminal.”³⁵

Please identify any current Justice Department guidance to federal prosecutors to support your argument that finding obstruction of justice “usually” entails “an underlying criminality.”

b. Special Counsel Mueller’s report states that “the evidence does indicate that a thorough FBI investigation would uncover facts about the campaign and the President personally that the President could have understood to be crimes or that would give rise to personal and political concerns.”³⁶ As noted above, in the obstruction discussion in your March 24 letter, you stressed the importance of finding “an

³⁰ Vol. II, p. 91.

³¹ Barr Letter, *supra* note 14, at 3.

³² *Hearing*, *supra* note 5.

³³ U.S. DEP’T OF JUSTICE, JUSTICE MANUAL: CRIMINAL RESOURCE MANUAL § 1720, <https://www.justice.gov/jm/criminal-resource-manual-1720-protection-government-processes-overview>.

³⁴ *Id.* § 1736, <https://www.justice.gov/jm/criminal-resource-manual-1736-inchoate-obstruction-justice-offenses>.

³⁵ *Id.*

³⁶ Vol. II, p. 76.

underlying crime related to Russian election interference.”³⁷ Why, in your view, does the “underlying crime” need to be specifically “related to Russian election interference”—as opposed to *other* potential criminal activity involving President Trump—in order to “bear[] on the President’s intent with respect to obstruction”? Please provide any relevant legal authorities to support your claim.

8. Special Counsel Mueller’s report lists several “considerations that guided our obstruction-of-justice investigation.”³⁸ The report explains:

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 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.*³⁹

At your April 18 press conference, you said in response to a reporter’s question that you, Deputy Attorney General Rod Rosenstein, and Acting Principal Associate Deputy Attorney General Ed O’Callaghan had met with Special Counsel Mueller on March 5. You stated:

We specifically asked [Special Counsel Mueller] 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.⁴⁰

And at last week’s hearing, you described Special Counsel Mueller’s reliance on the OLC opinion as “a prudential reason—one of the backdrop factors that he cited as influencing his prudential judgment that he should not reach a decision, which is different than citing the OLC—saying that but for the OLC opinion, I would indict.”⁴¹

- a. As noted, Special Counsel Mueller’s report specified that “this Office accepted OLC’s legal conclusion for the purpose of exercising prosecutorial jurisdiction.”⁴² That is, the report states that the Special Counsel’s Office viewed the OLC opinion as limiting the Office’s *jurisdiction* to use its prosecutorial authority. Given the text of the report, on what basis do you view the Office’s use of the OLC opinion as merely “prudential”?

³⁷ Barr Letter, *supra* note 14, at 3.

³⁸ Vol. II, p. 1.

³⁹ *Id.* (emphasis added) (footnote omitted).

⁴⁰ Zachary Basu, *Transcript: Bill Barr Answers Questions About Mueller Report*, AXIOS (Apr. 18, 2019), <https://www.axios.com/bill-barr-transcript-mueller-report-press-conference-42a9fb6a-741b-4af8-adb1-0693b8f15c25.html>.

⁴¹ *Hearing*, *supra* note 5.

⁴² Vol. II, p. 1.

- b. Do you believe that the Special Counsel’s Office lacked the authority or prosecutorial jurisdiction to indict a sitting President?
- c. At the March 5 meeting that you referenced with Special Counsel Mueller, did he state that the Special Counsel’s Office viewed the OLC opinion as merely “prudential” guidance or “one of the backdrop factors,” as opposed to a limit on the Office’s jurisdiction?
- d. Did Special Counsel Mueller ever indicate to you, Deputy Attorney General Rosenstein, or Mr. O’Callaghan that he believed the Special Counsel’s Office lacked the authority or prosecutorial jurisdiction to indict a sitting President?
- e. At the press conference and at the hearing, you used the same “but-for” construction about Special Counsel Mueller and the OLC opinion. For example, you testified at the hearing: “Special Counsel Mueller stated three times to us in that meeting, in response to our questioning, that he emphatically was not saying that but for the OLC opinion he would have found obstruction.”⁴³

But Special Counsel Mueller’s report states, in the same discussion about the OLC opinion and the Office’s jurisdiction, that the Office “determined not to make a traditional prosecutorial judgment.”⁴⁴ Further, the Office “determined not to apply an approach that could potentially result in a judgment that the President committed crimes.”⁴⁵ To be clear, Special Counsel Mueller did *not* tell you at this meeting that his Office had made any determination about the sufficiency of the obstruction evidence in the first place—correct?

- f. Based on the report and your communications with Special Counsel Mueller, do you agree that the Special Counsel’s Office declined to “make a traditional prosecutorial judgment” on obstruction of justice *because of* the OLC opinion? Please explain your answer.
9. At your April 18 press conference, you used the word “collusion” four times.⁴⁶ For instance, you said that Special Counsel Mueller’s report found “no underlying collusion with Russia.”⁴⁷ You also said that “there was relentless speculation in the news media about the President’s personal culpability. Yet, as he said from the beginning, there was in fact no collusion.”⁴⁸

You used the word “collusion” despite the Special Counsel’s rejection of the term. The report stated, “In evaluating whether evidence about collection action of multiple individuals

⁴³ *Hearing, supra* note 5.

⁴⁴ Vol. II, p. 1.

⁴⁵ Vol. II, p. 2.

⁴⁶ Barr Press Conference, *supra* note 9.

⁴⁷ *Id.*

⁴⁸ *Id.*

constituted a crime, we applied the framework of conspiracy law, not the concept of ‘collusion.’”⁴⁹ The report added that “collusion is not a specific offense or theory of liability found in the United States Code, nor is it a term of art in federal criminal law.”⁵⁰

At last week’s hearing, you testified, “I am not in the business of determining when lies are told to the American people. I am in the business of determining whether a crime has been committed.”⁵¹ “Collusion,” as the report noted, is not a crime or a theory of liability found in the U.S. Code. But “no collusion” is catchphrase used repeatedly by President Trump.

If you are “in the business of determining whether a crime has been committed,” and “collusion” is not a legal term for a crime, why did you repeat four times at your press conference that there was no “collusion” between the Trump campaign and Russia?

10. As of the date of your answering these questions for the record, how much total money (including the value of all assets acquired) has the Department of Justice seized or otherwise recouped in connection with the Office of the Special Counsel’s investigation and related prosecutorial actions?
11. At last week’s hearing, you said the following about Special Counsel Mueller’s investigation into obstruction of justice: “I’m not really sure of his reasoning. I really could not recapitulate his analysis, which is one of the reasons in my March 24 letter I simply stated the fact that he did not reach a conclusion—didn’t try to put words in his mouth. I think that, if he felt that he shouldn’t go down the path of making a traditional prosecutive decision, then he shouldn’t have investigated. That was the time to pull up.”⁵²
 - a. When did you first learn that the Special Counsel’s Office would decline to “make a traditional prosecutorial judgment”⁵³ on obstruction of justice?
 - b. When you testified at the hearing that you thought Special Counsel Mueller “shouldn’t have investigated” and that it was “the time to pull up” if he wouldn’t “go down the path of making a traditional prosecutive decision,” should we understand that to mean you believed the obstruction-of-justice investigation should be terminated at that juncture?
 - c. At any time, including when you learned that the Special Counsel’s Office would decline to “make a traditional prosecutorial judgment” on obstruction of justice, did you indicate to Special Counsel Mueller or anyone in the Special Counsel’s Office, in any manner, that you believed the investigation should end or be curtailed in any way?

⁴⁹ Vol. I, p. 2.

⁵⁰ *Id.*

⁵¹ *Hearing, supra* note 5.

⁵² *Id.*

⁵³ Vol. II, p. 1.

**“The Department of Justice’s Investigation of Russian Interference
with the 2016 Presidential Election”**

**Questions for the Record for
Attorney General William Barr**

Submitted May 8, 2019

QUESTIONS FROM SENATOR WHITEHOUSE

1. At any point before February 14, 2019, have you publicly described authorized investigative activities at the Department of Justice or FBI as “spying”? Please specify dates and context for each instance.
2. In your live testimony you said that on March 5, 2019, Special Counsel Robert Mueller told you that he was not going to make a prosecutorial decision on obstruction of justice charges against President Trump. Was this the first time Mr. Mueller or anyone on his team had communicated his decision to you, Deputy Attorney General [DAG] Rosenstein, or any representatives of your two offices? If not, please indicate when you and/or Mr. Rosenstein first learned about his decision and who told you.
3. In your live testimony you stated that in regards to Mr. Mueller’s prosecutorial decision on obstruction, “We started talking about it on March 5 and there had already been a lot of discussions prior to March 5 involving the deputy, the principal associate deputy in the Office of Legal Counsel [OLC] that had dealings with the Special Counsel’s Office.”
 - a. Please explain further what you meant when you testified that OLC was involved in “a lot of discussions” before March 5 about the Special Counsel’s investigation. What were the topics of these discussions? Who in OLC was involved in these discussions? Over what period of time did they take place?
 - b. Please list the topic of all legal opinions given by the OLC to the Special Counsel, and the dates on which they were provided.
 - c. Prior to March 5, did OLC assess the sufficiency of evidence for any claims being considered by the Special Counsel? If so, please explain.
4. Between your March 5 meeting with Special Counsel Mueller and your receipt of his report on March 22, what contacts did you, DAG Rosenstein, or any representatives of your offices, have with the Special Counsel’s office? Please specify dates and topics.
5. At your hearing you said, “we had--had a lot of discussions about [the obstruction charge] before the 22, but that the final decision was made on the 24th.”
 - a. Please identify all persons involved in these discussions.
 - b. During the discussions you had on obstruction of justice between before March 22, what evidence did you review to inform your discussions?
 - c. Did the Special Counsel give you, DAG Rosenstein, or any representatives of your offices, any drafts or summaries of his report before March 22? Were you, DAG Rosenstein, or any representatives of your offices, provided copies or summaries of any of the underlying evidence? If so, please specify what you were given and when.

6. How many letters has Mr. Mueller or any member of his staff written to you, DAG Rosenstein, or any representatives of your offices, after March 24, 2019? What are the dates of the letters?
7. Other than the conversation you had with Special Counsel Mueller on March 28, 2019, have you had any conversations Mr. Mueller since March 24? Please note the dates and topics.
8. Were you aware of any contacts between OLC and anyone working for the Special Counsel before you submitted your June 8, 2018 memorandum on obstruction of justice? Please specify.
9. Before you submitted your June 8, 2018 memorandum on obstruction of justice, did anyone tell you that Special Counsel Mueller was contemplating a case under 18 U.S.C. section 1512(c)(2)? If so, please state who told you and when.
10. On June 27, 2018, you participated in a “brown bag” lunch at OLC. The head of that office is Steven Engel, one of the recipients of your June 8 memorandum.
 - a. Who invited you to this lunch and on what date was the invitation extended?
 - b. Please list every legal topic you discussed at the lunch.
 - c. Did you discuss your June 8 memorandum during this lunch?
 - d. Did you discuss your June 8 memorandum with any other person while you were at the Department of Justice [DOJ] on June 27, 2019? If so, who?
 - e. Before this lunch were you aware that OLC had been in contact with the Mueller team?
 - f. Did you discuss the Special Counsel’s investigation with Mr. Engel during this visit?
11. Are you personally aware of the allegations made by the United States in case # 18 CRM 602 in the Southern District of New York? Are you personally aware of the identity of Individual 1 in that case?
12. In your hearing you agreed that anonymous election funding was an avenue for foreign election influence and interference. The Mueller Report concluded that the Internet Research Agency’s (IRA) operation “included the purchase of political advertisements on social media in the names of U.S. persons and entities...” (page 4)
 - a. If organizations spending money in elections were required to disclose their donors, would it make it easier to detect and deter foreign nationals from spending money in elections?
 - b. Do you agree that shell companies provide an avenue for foreign election influence and interference in our elections? Would requiring companies to disclose beneficial ownership information allow law enforcement and election officials to detect and deter foreign interference in U.S. elections?
13. The Mueller Report concluded that the IRA social media campaign “favored presidential candidate Donald J. Trump and disparaged presidential candidate Hillary Clinton.” (page 1)
 - a. Do you agree with this finding? If you do not, on what evidence do you base your assessment?
 - b. Your March 24 letter characterized the IRA’s social media campaign as “designed to sow social discord, eventually with the aim of interfering in the election.” Why

did the letter omit that the IRA's social media campaign favored candidate Trump and disparaged candidate Clinton?

14. Have you even had a conversation about the Special Counsel's investigation with Leonard Leo? If so, please list the topics and dates of each conversation.
15. Has anyone at the White House or any person employed by or involved with the Trump campaign suggested you open an investigation into Hunter Biden? Please specify and detail the contents of those communications.
16. Has anyone at the White House or any person employed by or involved with the Trump campaign suggested you open an investigation into a specific person?
17. Since your confirmation, has DOJ made any changes to its policy on communications with the White House? In your confirmation testimony, you indicated it was your understanding that DOJ still followed the 2009 memorandum from Attorney General Eric Holder. Is that still your understanding?
18. As a general proposition, what is the appropriate role of the Attorney General in providing public relations services to the President and the White House?
19. FBI Director Christopher Wray testified on May 7, 2019: "if any public official or member of any campaign is contacted by any nation-state or anybody acting on behalf of a nation-state about influencing or interfering with our election, then that something that the FBI would want to know about." Do you agree with that statement?

Senator Dick Durbin
Written Questions for William Barr
May 8, 2019

For questions with subparts, please answer each subpart separately.

1. On October 25, 2017, I submitted written questions for the record to Attorney General Sessions after his oversight hearing before the Senate Judiciary Committee, including questions relevant to the Department of Justice's investigation of Russian interference with the 2016 presidential election. He still has not responded to these questions. **Will you provide responses to these questions from the Senate Judiciary Committee, which has oversight jurisdiction over the Justice Department?**
2. According to Appendix D, page three, of the Mueller report, the Special Counsel's Office "periodically identified evidence of potential criminal activity that was outside of the scope of the Special Counsel's jurisdiction" and referred that evidence to other Justice Department components. There are 14 such referrals referenced in the Mueller report, 12 of which are redacted.

I believe you should recuse yourself from ongoing investigations involving evidence referred by the Mueller investigation. Your own statements and actions with respect to this investigation have called your credibility and your independence in doubt.

- a. **Subsequent to April 18 and your statements and actions leading up to the release of the redacted Mueller report, have you sought the recommendation of career Department ethics officials regarding recusing yourself from these 14 referred matters?**
 - b. **If not, will you do so now?**
3. The U.S. Attorneys' Offices for the Southern District of New York (SDNY) and the District of Columbia (DC) have reportedly received referrals from the Special Counsel's Office. These offices are reportedly continuing to investigate matters related to the President, including possible campaign finance violations involving hush money payments and the President's attorney Michael Cohen, as well as foreign money going to the Trump inaugural committee.

According to news reports, President Trump last year suggested to then-Acting Attorney General Matthew Whitaker that Geoffrey Berman, the U.S. Attorney for the SDNY, could un-recuse himself and take charge over the hush money probe.

- a. **Has the President communicated with you about any investigations in the SDNY and DC U.S. Attorneys' Offices, including these referred investigations?**
- b. **Has the President asked you to take any actions in relation to these investigations?**

- c. **Have you had any discussions or involvement with the SDNY and DC U.S. Attorneys' Offices regarding these investigations?**
 - d. **Will you commit that the Department will follow the recommendations of career prosecutors regarding these investigations and not let these investigations be subject to influence or interference from the White House?**
4. At your hearing I asked you about the April 16 ethics waiver you received from White House attorney Emmet Flood to participate in the investigation and litigation of the 1MDB matter. This is an investigation into a Malaysian company for alleged money laundering. According to news reports, as part of this investigation the U.S. Attorney's Office for the Eastern District of New York is investigating whether a Malaysian national illegally donated to the Trump inaugural committee with money taken from 1MDB. You obtained an ethics waiver to participate in this matter even though your former law firm, Kirkland & Ellis, represents an entity involved in this investigation, namely Goldman Sachs.

At your hearing you said "the Criminal Division actually asked me to get a waiver because of the importance of the investigation overall." You said the head of the Criminal Division, former Kirkland & Ellis partner Brian Benczkowski, made the request that you seek the waiver.

- a. **Please explain your statement that the Criminal Division asked you to get an ethics waiver "because of the importance of the 1MDB investigation overall." Why could this investigation not be overseen by other Department officials who did not have a conflict that required an ethics waiver?**
 - b. **Since you have rejoined the Justice Department, have you obtained any other ethics waivers to participate in investigations or matters that involve clients of Kirkland & Ellis?**
 - c. **Did Mr. Benczkowski also obtain an ethics waiver to participate in this investigation, given his status as a former Kirkland & Ellis attorney?**
 - d. **Will you commit to inform this Committee and the public each time you obtain an ethics waiver to participate in a Department investigation or matter?**
 - e. **Have you had any discussions, communications, or correspondence with Emmet Flood regarding the 1MDB investigation besides Flood's signing of the April 16 ethics waiver? If so, please describe the nature of those communications and the dates on which they occurred.**
5. Volume I, page one, of the Mueller report says "The Russian government interfered in the 2016 presidential election in sweeping and systematic fashion." **Do you agree with this factual finding?**

6. Volume I, page one, of the Mueller report says “a Russian intelligence service conducted computer-intrusion operations against entities, employees, and volunteers working on the Clinton campaign and then released stolen documents.” **Do you agree with this factual finding?**
7. Volume I, pages one and two, of the Mueller report say, in an excerpt of a sentence that you excluded from your March 24 letter, that “the investigation established that the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome, and that the [Trump] Campaign expected it would benefit electorally from information stolen and released through Russian efforts...” **Do you agree with these factual findings?**
8. On April 21, the President’s lawyer Rudy Giuliani said in a CNN interview: “There’s nothing wrong with taking information from Russians.” **Do you agree?**
9. On April 24, *The New York Times* reported that White House Acting Chief of Staff Mick Mulvaney urged then-DHS Secretary Kirstjen Nielsen not to talk to President Trump about potential Russian election interference in the 2020 election. **Have you ever talked with the President about potential Russian efforts to interfere with upcoming election? If so, when were those conversations?**
10. On July 27, 2016, then-candidate Trump publicly said: “Russia, if you’re listening, I hope you’re able to find the 30,000 emails that are missing.” Volume I, page 49 of the Mueller report says that within five hours of that statement, GRU officers tried to hack into Hillary Clinton’s office for the first time. President Trump said in his written responses to the Special Counsel’s Office that he made this statement “in jest and sarcastically.” (See Appendix C-17) **In your view, was it appropriate for candidate Trump to publicly invite Russia to take actions that would help his campaign, even if only in jest?**
11. In your April 18 press conference, you speculated about President Trump’s intent when he committed the acts of obstruction described in the Mueller report. You said that in your view “evidence of non-corrupt motives weighs heavily against any allegation that the President had a corrupt intent to obstruct the investigation.”

Of course, the easiest way to determine what the President’s intent and motives were would have been to interview the President and ask him. In Appendix C, the Mueller report says that the Special Counsel’s Office sought an interview with the President beginning in December 2017. In fact, the Special Counsel’s Office told the President’s lawyer on May 16, 2018 that: “An interview with the President is vital to our investigation.” (See Appendix C-1, emphasis added) But the President refused to answer questions from the Special Counsel about obstruction of justice and refused to sit for an interview.

According to Appendix C, page one, “after extensive discussions with the Department of Justice about the Special Counsel’s objective of securing the President’s testimony,” on September 17 the Special Counsel merely submitted written questions to the President on Russia-related topics only. According to Appendix C, the President’s responses were

inadequate even with regard to those limited written questions, with the President responding on over 30 occasions that he did not recall or remember the matter in question.

I am curious what happened between May 16, 2018 and September 17, 2018 to cause the Special Counsel to drop his request for a “vital” interview. I note that on June 8, 2018, you sent your nineteen-page memo to Deputy Attorney General Rosenstein, other DOJ officials, and the President’s lawyers. In that memo you said that “Mueller should not be permitted to demand that the President submit to interrogation about alleged obstruction.” In other words, your memo advised that Special Counsel Mueller’s supervisors block him from interviewing the President about matters including his intent.

- a. **Did Special Counsel Mueller ever request authorization from Deputy Attorney General Rosenstein to demand that the President submit to an interview about obstruction?**
 - b. **Did Deputy Attorney General Rosenstein ever permit Mueller to demand that the President submit to an interview about obstruction? Or did Rosenstein take your advice not to permit that?**
12. You said at your April 18 press conference that “the White House fully cooperated with the Special Counsel’s investigation.”
- a. **When you said “the White House,” did you mean the President too?**
 - b. Volume I, page eight of the Mueller report says that President Trump sought “to have the Special Counsel removed, and engaged in efforts to curtail the Special Counsel’s investigation and prevent the disclosure of evidence to it, including through public and private contacts with potential witnesses.” The report also says that the President refused to be interviewed by the Special Counsel and gave “inadequate” written responses. **Do you stand by the accuracy of your statement that “the White House fully cooperated with the Special Counsel’s investigation”?**
- 13.
- a. The Mueller report says on Volume II, page 157, that proof of an underlying crime is not an element of an obstruction offense and that “Obstruction of justice can be motivated by 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. The injury to the integrity of the justice system is the same regardless of whether a person committed an underlying wrong.” **Do you agree with this statement?**
 - b. **Can covering up campaign finance violations be a motive for obstruction of justice?**
14. In your March 24 summary letter, you said: “The Special Counsel’s decision to describe the facts of his obstruction investigation without reaching any legal conclusions leaves it to the Attorney General to determine whether the conduct described in the report constitutes a crime.”

Actually, Special Counsel Mueller said in the report that he thought it would be improper to make a traditional prosecutorial judgment about obstruction of judgment because of the Office of Legal Counsel opinion prohibiting indictment of a sitting president.

- a. **Is it your position that Special Counsel Mueller could have made such a traditional prosecutorial judgment himself regarding a sitting president?**
 - b. **If so, could a U.S. Attorney's Office also make such a prosecutorial judgment regarding potential crimes committed by a sitting president?**
 - c. **The Mueller report says on Volume II, page one, that "a President does not have immunity after he leaves office." Do you agree with this statement?**
15. On March 24, after you put out your summary memo of the Mueller report, President Trump tweeted "Complete and total exoneration." **In your view, does the Mueller report completely and totally exonerate President Trump? Or was President Trump incorrect in making that tweeted statement?**
- 16.
- a. **Why did you hold a press conference on April 18 before you released the text of the Mueller report? You had already sent multiple letters summarizing the report and discussed it twice in testimony before the House and Senate Appropriations Committees.**
 - b. **Did you talk to White House officials in advance about your decision to hold a press conference on April 18? If so, when and with whom?**
17. **When you shared the Mueller report with the White House and the President's personal attorneys before releasing it to Congress, did you give them copies of the report that had the exact same redactions that Congress received? Or did you give White House officials or the President's personal attorneys a version with fewer redactions?**
18. **Should employees of the Executive Branch lie when directed to do so by the President?**
19. On April 25, in an interview with Sean Hannity, President Trump said of the FBI's Russia investigation: "this was a coup. This was an attempted overthrow of the United States Government." **Do you object to this characterization by the President?**
20. On March 3, 2016, then-candidate Trump announced that then-Senator Sessions would serve as chairman of the Trump National Security Advisory Committee. On July 31, 2016, Sessions gave an interview on CNN where he was asked about possible connections between Trump businesses and Russian investors. He responded:

What I want to tell you is Hillary Clinton left her email system totally vulnerable to Russian penetration. It's probably clear that they have what was on that system. I have people come up to me all the time and say, 'why don't you - if you want to find out where those 30,000 emails are, why don't you ask the Russians. They're the ones who have them.' (See <https://www.cnn.com/videos/tv/2016/07/31/sotu-sessions-russia.cnn>)

The Mueller report notes on Volume 1, page one, that on July 31, 2016—the same day as this Sessions interview—the FBI opened an investigation “into whether individuals associated with the Trump Campaign were coordinating with the Russian government in its interference activities” after the FBI had been alerted to information regarding Trump Campaign foreign policy advisor George Papadopoulos.

I asked then-Attorney General Sessions about his CNN interview in my written questions of October 25, 2017, but he has not responded.

- a. **Has the Department of Justice or FBI identified the people who came up to then-Senator Sessions prior to July 31, 2016 to say “why don't you ask the Russians” for information about Hillary Clinton's emails because “[t]hey're the ones who have them”?**
- b. **Did former Attorney General Sessions provide the names of these people to investigators in the FBI or Special Counsel's Office, given the relevance of this information for the investigation into Russian election interference, and were these people interviewed?**
- c. **Are you confident that none of the people who said this to former Attorney General Sessions ever communicated with representatives of the Russians regarding information about Hillary Clinton?**
- d. **If someone comes up to a person publicly associated with a presidential campaign, such as the chairman of the campaign's National Security Advisory Committee, and suggests that the campaign official contact the Russians to get information about the opposing presidential candidate, should the campaign official alert the FBI?**

**The Department of Justice's Investigation of Russian Interference with the 2016
Presidential Election
Questions for the Record
Submitted May 8, 2019**

QUESTIONS FROM SENATOR COONS

1. If you learn that the White House is attempting to interfere with any of the investigations that have been opened as a consequence of Special Counsel Mueller's investigation, will you report that information to Congress and investigate? Please provide examples of what, in your view, would constitute inappropriate interference attempts.
2. You testified you do not recall having any "substantive" conversations about ongoing investigations that have been spun off from the Special Counsel's investigation.
 - a. Please explain what you meant by "substantive" conversations.
 - b. Have you had any conversations about any of these investigations with anybody in the White House? If so, with whom?
 - c. If you're asked to brief the President, any of his attorneys, or anybody in the White House about an ongoing investigation stemming from the Special Counsel's investigation, will you decline?
3. To your knowledge, has the President or anybody in the White House asked, suggested, intimidated, or hinted that you, or anybody in the Department of Justice, should open an investigation in any particular individual or entity?
4. Did you discuss the Special Counsel's report with the President, any of his attorneys, or anyone in the White House after the March 5, 2019 meeting with Special Counsel Mueller, in which you testified you were briefed on the nature of the conclusions in the Special Counsel's report? If so, please provide the dates of each discussion and identify the participants in it.
5. Did you discuss a strategy about how, when, and what to release regarding the report at any point after your Senate confirmation?
 - a. If so, please provide the dates of each discussion and identify the participants in it.
 - b. If so, do you have documents or notes memorializing those conversations?
 - c. If so, will you provide them to Congress?
6. Is it your understanding that Special Counsel Mueller did not state that the President committed obstruction of justice because there is insufficient evidence of obstruction of justice?
7. You testified that you did not review the underlying evidence in this case before deciding to announce that President Trump did not commit obstruction.
 - a. Is it true that prosecution or declination decision memoranda provided to U.S. Attorneys generally contain a charging recommendation?

- b. Have you ever reviewed a report that did not come with a prosecution or declination recommendation?
 - c. Do you agree that in making a prosecution or declination recommendation, the prosecutor who makes such an important decision should have reviewed the evidence in the case?
- 8. Do you agree with the Special Counsel's assessment in his March 27, 2019 letter to you that there was "public confusion about critical aspects of the results of our investigation" after the release of your four-page summary of principal conclusions on March 24, 2019?
- 9. Is it your position that if a President believes he is being falsely accused, the President may end an investigation into his own conduct?
 - a. Can the President end an investigation into activity of the President's family if he believes the family member is falsely accused?
 - b. Can the President end an investigation into activity of the President's advisors or associates if he believes the advisor/associate is falsely accused?
 - c. In such a scenario, how would the public know, beyond the President's assertions, that no criminal activity took place?
- 10. Does an investigation into potential criminal activity have to yield a criminal charge in order to justify opening an investigation in the first place?
- 11. Are all investigations that do not result in a decision to prosecute based on "false accusations"?
- 12. Do you believe that, despite intelligence that Russians had contacted members of the Trump Campaign offering dirt on Hillary Clinton, and despite the Intelligence Community's conclusions that Russians attacked the 2016 presidential election, there were insufficient grounds to open the investigation into Russian contacts with the Trump Campaign?
- 13. Do you agree with the Special Counsel's report conclusion that Russia interfered in the 2016 election in a "sweeping and systematic" fashion?
- 14. Do you agree with the FBI's assessment that Russia is likely to attempt to interfere in the 2020 U.S. election?
 - a. Have you had any conversations with the President or anyone at the White House about potential foreign interference in the 2020 election?
 - b. If so, has the President or anyone in the White House suggested steps to counter improper foreign interference in the 2020 election?
 - c. What steps are being taken at the Department of Justice to combat improper foreign interference in the 2020 election?
- 15. Is it legal for a campaign representative to invite, encourage, or intentionally induce, either through public or private statements, assistance from foreign nations in the upcoming election?

16. Please state whether a campaign should contact the FBI if they are approached by each of the following individuals with offers to provide any form of assistance, whether information or otherwise, in an election.
 - a. A foreign government official;
 - b. An individual representing a foreign government;
 - c. An individual connected to a foreign intelligence agency;
 - d. A foreign national with known ties to a foreign government or intelligence agency.
17. Will you commit to working with the FBI and other law enforcement agencies to provide guidance to campaigns about what constitutes improper election activity based on current law?
18. Is it improper for a campaign to accept a thing of value from a foreign national under campaign finance law?
 - a. Can opposition research qualify as a thing of value if donated by a foreign national to a campaign?
 - b. Can hacked emails qualify as a thing of value if given to a campaign by a foreign national?
19. If a foreign national requests internal campaign polling data from any campaign in the 2020 election, should that campaign report that request to the FBI?
20. We still do not know what Paul Manafort's purpose was for providing internal campaign polling information to Konstantin Kilimnik, or what that information was ultimately used for. Will the Justice Department attempt to uncover why and for what purpose this information was provided?
21. Do you believe the Special Counsel had conflicts that would have supported his removal?
22. The Special Counsel's report states that after receiving two phone calls from the President, then-White House Counsel McGahn understood the President to be demanding that McGahn fire the Special Counsel. Then, McGahn drove to his office to pack his belongings, submitted his resignation, spoke with his personal attorney, and spoke with his own chief of staff who also decided to resign. Do you agree with the Special Counsel that "[t]hose acts would be a highly unusual reaction to a request to convey information to the Department of Justice"?
23. If a factfinder determined that the President did intend to have then-White House Counsel McGahn fire the Special Counsel, and such act would delay or impede an obstruction investigation into the President himself, could this be considered an obstructive act done with corrupt intent under the obstruction statutes?
24. Can a President's attempts to delay an investigation constitute obstruction of justice?

25. You testified that as a matter of law it is the Department of Justice's position that a President can fire a Special Counsel, and therefore that such conduct could not be obstructive. However, the Special Counsel lays out multiple constitutional arguments suggesting that such an interpretation is incorrect. Why should the Attorney General, and not a court, decide this question of constitutional and statutory interpretation?
26. If McGahn had created a letter for White House records in January 2018 stating that the President never asked him to fire the Special Counsel, and later testified to the contrary that the President had in fact asked McGahn to fire the Special Counsel, would McGahn's credibility as a witness in the investigation be impaired?
27. You testified that because then-White House Counsel McGahn had already been interviewed by the Special Counsel's office, the President could not have been trying to impact McGahn's testimony. However, the report states that "it was foreseeable that [McGahn] would be interviewed again on obstruction-related topics." Do you agree with the Special Counsel's assertion that it was foreseeable that McGahn would be interviewed again by the Special Counsel's office? If not, please explain the basis for your disagreement.
28. The Special Counsel's report notes that the President engaged in various "acts directed at witnesses, including discouragement of cooperation with the government and suggestions of possible future pardons."
 - a. Can discouraging a witness from cooperating with the government constitute obstruction of justice?
 - b. Can suggesting the possibility of a future pardon for a witness constitute obstruction of justice?
29. Do you believe that, despite the ten episodes examined by the Special Counsel, and despite the fact that in several of these episodes the Special Counsel found "substantial evidence" on each of the elements of an obstruction offense, there were insufficient grounds for the Special Counsel to investigate that potentially obstructive activity?
30. Is underlying criminal conduct required to establish an obstruction of justice offense?
31. Corey Lewandowski was a private citizen and did not have a position in the Trump administration in June 2017.
 - a. Is directing a private citizen to relay a message to the Attorney General an exercise of a President's Article II powers?
 - b. Is directing a private citizen to fire the Attorney General an exercise of a President's Article II powers?

**The Department of Justice’s Investigation of Russian Interference with the 2016
Presidential Election
Attorney General William Barr
Questions for the Record
Submitted August 20, 2019**

QUESTIONS FROM SENATOR FEINSTEIN

Backchannels with Russia

1. The Special Counsel report recounts several efforts to establish “back channel” communications between Russia and top Trump advisors. This includes a meeting arranged in the Seychelles between Erik Prince and a Russian official to “build a link” between Russia and the incoming Trump Administration. (Vol. I, pp. 151-52). It also includes Jared Kushner suggesting to Russian Ambassador Kislyak that they use “secure facilities at the Russian Embassy” for Russian generals to brief the Trump transition team. (Vol. I, p. 160-61). In addition, the Justice Department submitted an affidavit last week which concluded Maria Butina, a Russian national, sought to establish “back channel” communications between Russia and Trump’s top advisors. She did this to “enable Russia to bypass formal channels of diplomacy, win concessions, and exert influence within the United States” while harming U.S. national security and foreign policy. (*U.S. v. Butina*, Doc. 99-1, Aff. of Robert Anderson Jr., Apr. 19, 2019).
 - a. **Did Mr. Kushner’s proposed “back channel” communication with Russian generals pose national security risks?**
2. Jared Kushner’s attorney has confirmed to Congress that his client currently uses WhatsApp to communicate with foreign leaders. (Cummings Letter to Cipollone, Mar. 21, 2019).
 - a. **Does the use of WhatsApp allow Mr. Kushner to avoid formal diplomatic channels?**
 - b. **Is the Department taking any steps to address Mr. Kushner’s use of WhatsApp?**

Encouraging Russian Hacking

3. The Mueller report states that Trump campaign aides “reacted with enthusiasm” to Russia hacking DNC computers. (Vol. I, p. 17). Candidate Trump then publicly encouraged Russia to “find” missing Clinton emails and, within five hours, Russian operatives attempted to hack Clinton’s email servers for the first time. (Vol. I, p. 49). The report says that Trump also “repeatedly” asked members of his own campaign to find Clinton’s emails. (Vol. I, pp. 62-65).
 - a. **Is it appropriate for a candidate to encourage a hostile foreign power to hack into an opponent’s computer servers?**

- b. If candidate Trump was just joking or being sarcastic, why did he also direct his own campaign to find Clinton’s emails, which included possible contacts with foreign intelligence services and Russian hackers along with efforts to obtain the emails on the “dark web”?**

Congressional Access to Grand Jury Information

4. In the past, the Department has supported congressional requests for court orders to obtain grand jury information. For example, the Department asked the court to release grand jury information during Watergate. The Department has also made this request when Congress has investigated alleged misconduct by judges. (*See, e.g., In re Report & Recommendation of June 5, 1972 Grand Jury*, 370 F. Supp. 1219, 1221 (D.D.C. 1974); *In re Grand Jury Investigation of Judge Porteous*, Doc. 35, Misc. No. 09-4346, ¶¶ 4-5 (E.D. La. 2009)).
 - a. Has the Department sought or received guidance from the Office of Legal Counsel regarding grand jury information related to investigation in to Russian interference in the 2016 election? If so, when was the guidance sought and provided? Please also provide a copy of any OLC guidance on this topic.**
 - b. Have you communicated (including through discussion, memos, or letters) with anyone in the White House about Congress getting access to grand jury information in the report? If so, who, when and what was communicated?**
 - c. Have you communicated (including through discussion, memos, or letters) with any of the President’s personal lawyers about this topic? If so, who, when and what was communicated?**

Consultations with Office of Legal Counsel

5. When Special Counsel Mueller submitted his report, you released a letter stating, among other things, that you had decided not to charge President Trump with any crime related to obstruction of justice. At the May 1 hearing, you said that this decision was informed by discussions between Deputy Attorney General Rosenstein and the Principal Deputy Attorney General at the Justice Department Office of Legal Counsel. You also said that “OLC had already done a lot of thinking about some of these issues” before the report was submitted and “had been in regular contact ... with Mueller’s people.”
 - a. How many times did Deputy Attorney General Rosenstein or others from your office consult with Office of Legal Counsel staff on questions related to whether President Trump committed obstruction of justice?**
 - b. Did Deputy Attorney General Rosenstein or others from your office also consult Office of Legal Counsel staff on questions related to Russian interference? If so, how many times?**

- c. **How many times did Office of Legal Counsel staff contact members of Special Counsel Mueller’s team? Was Office of Legal Counsel staff granted access to evidence or other sensitive information before the report was finalized?**
- d. **Did the Office of Legal Counsel provide input or advice to Special Counsel Mueller’s team while the report was being drafted?**
- e. **Please provide copies of any written advice provided by the Office of Legal Counsel to you, your office, or Special Counsel Mueller’s team related to Special Counsel Mueller’s investigation or report.**

Discussions with the White House

- 6. According to the Special Counsel’s report, 25 matters stemming from the Special Counsel investigation either were transferred or referred to other components of the Justice Department and remain open. (Appx. D, pp. 1-6). At the May 1, 2019 hearing, you were unable to recall whether you discussed these, or any other, pending or ongoing matters with the President or with anyone at the White House. You did suggest, however, that if you “looked over a list of cases and thought about it,” that might refresh your recollection. Likewise, when Senator Harris asked you if you had discussed potential future investigations with President Trump or anyone at the White House, you said, “I mean there have been discussions of matters out there,” but did not explain what matters you had discussed, or whether President Trump or anyone else had provided input on any pending or ongoing matters.
 - a. **With regard to the specific matters contained in Appendix D of the Mueller report, have you ever discussed with the President or anyone currently or formerly at the White House about any of the 25 ongoing matters listed in Appendix D of the Special Counsel’s report? If so, please identify which matters (if a matter is redacted in Appendix D, please identify it by its number), who initiated this discussion, when it took place, and everyone who was present.**
 - b. **Have you discussed with the President or anyone currently or formerly at the White House any potential or ongoing investigations of current or former FBI, DOJ or other government officials who were involved in the Russian interference investigations? If so, when, who initiated the discussion, who was present, and what was discussed?**
 - c. **Have you discussed with the President or anyone currently or formerly at the White House any potential, ongoing or closed investigations into former Secretary of State Hillary Clinton or other Obama Administration officials? If so, when, who initiated the discussion, and who was present?**

Senate Judiciary Committee Hearing on
“The Department of Justice’s Investigation of Russian Interference
with the 2016 Presidential Election”
Questions for the Record
May 8, 2019
Senator Amy Klobuchar

- 1) During the hearing, I asked you whether the Special Counsel reviewed the President’s taxes and the Trump Organization’s financial statements as part of his investigation. You said that you did not know, but that you could find out if I asked in writing.
 - Did the Special Counsel’s Office request and review any of the President’s personal tax documents or the Trump Organization’s financial documents?
 - If so, will you commit to providing those documents to the Committee?

- 2) During the hearing, we discussed that the Special Counsel’s report describes that the requisite intent to obstruct justice could be established by circumstantial evidence and a pattern of behavior.
 - The report states that “direct or indirect action by the President to end a criminal investigation into his own or his family members’ conduct to protect against personal embarrassment or legal liability would constitute a core example of corruptly motivated conduct.” Do you agree with this analysis?
 - If so, would such conduct be sufficient to establish a pattern of behavior on which the requisite intent to obstruct justice could be established?
 - If not, on what legal authorities do you base your view?
 - You said that determining “the subjective intent of a facially lawful act... permits a lot of selectivity on the part of the prosecutors and—and it’s been shot down in a number of other contexts.” In what “contexts” has this been “shot down”?

- 3) On March 27, the Special Counsel wrote to you expressing his concern that your four-page letter to Congress “did not fully capture the context, nature, and substance of [the Special Counsel’s Office] work and conclusions.”
 - Given the Special Counsel’s concerns, do you have any regrets about the way you handled the release of the report?

- 4) In your March 22 letter to Congress, you stated that there were no instances in which the Attorney General determined that a proposed action by the Special Counsel’s Office “was so inappropriate or unwarranted under established Departmental practices that it should not be pursued.” But on March 5, the Special Counsel recommended that you release the introductions and executive summaries from the report, which you declined to do.
 - Did the Special Counsel make other recommendations that you declined to follow?
 - Whom did you consult in making the decision not to release the introductions and executive summaries prior to the release of the entire report?

- 5) In your prepared remarks for the press conference on the morning of the public release of the Special Counsel’s report, you said, “the Deputy Attorney General and I disagreed with some of the Special Counsel’s legal theories.”

- With which of the Special Counsel’s legal theories did you and the Deputy Attorney General disagree, and on what specific legal authorities did you base your disagreements?
 - Did you discuss your disagreements with the Special Counsel?
- 6) Starting in March 2016, the Main Intelligence Directorate of the General Staff of the Russian Army (GRU) targeted U.S. state and local agencies along with private firms that are responsible for electronic polling and voter registration. The GRU also accessed voter information and installed malware on a voting technology company’s network.
- Has the Justice Department notified all of the entities that were targeted?
 - What steps are you taking in an effort to prevent this type of attack on our election infrastructure from happening again?
- 7) According to the report, in the lead up to the 2016 presidential election the Russian Internet Research Agency purchased over 3,500 ads on Facebook to sow discord among voters.
- What steps are you taking in an effort to prevent a foreign country from buying advertisements to influence future elections?
- 8) According to the Special Counsel’s report, on Volume I, page 131, former Trump campaign manager Paul Manafort met twice with Konstantin Kilimnik to discuss battleground states, including Minnesota, and shared polling data. The report states that the Special Counsel’s Office “could not assess what Kilimnik (or others he may have given [the polling data] to) did with it,” due to questions about Manafort’s credibility.
- What is the Justice Department doing to follow up on this lead provided by the Special Counsel’s investigation?
 - Do you think that it should be illegal for a political campaign to seek, incite, or otherwise encourage foreign involvement in American elections?
- 9) On August 22, 2018, the President praised Paul Manafort for not “flipping” the day after a jury convicted Manafort of eight felony counts. During the hearing, you stated that the President used the word “flipping” to mean “succumbing to pressure on unrelated cases to lie and compose in order to get lenient treatment on other cases.”
- To what unrelated cases do you believe the President was referring?
 - On November 26, 2018, the Special Counsel’s Office disclosed in a public court filing that Manafort breached his plea agreement by lying to investigators. Two days later, the President suggested that it was “very brave” that Manafort did not “flip.” To what unrelated cases do you believe the President was referring?
- 10) In your March 24 summary letter, you said: “Our determination [on obstruction of justice] was made without regard to, and is not based on, the constitutional considerations that surround the indictment and criminal prosecution of a sitting president.” During the hearing, however, you argued that if an investigation “is based on false allegations, the president does not have to sit there constitutionally and allow it to run its course,” and could “terminate that proceeding and not have it be corrupt intent because he was being falsely accused.”
- What is the legal authority that you believe provides the President with such a power?
 - What case law supports this proposition?

- Is it lawful for a person to obstruct an investigation if he or she believes any part of the investigation is based on false allegations?

11) I am concerned by the Justice Department's decision to argue that the Affordable Care Act should be overturned. News reports have suggested that you counseled against this decision.

- During your confirmation hearing, you said that it is the "Attorney General's responsibility to enforce the law evenhandedly and with integrity." You also said that the "enforcement of the law" must be "above and away from politics." Was the decision in this case consistent with those principles?
- In your view, was the decision not to defend any provision of the Affordable Care Act a legal decision or a political decision?

12) During your confirmation hearing, I asked you to review my legislation to prevent abusive dating partners and convicted stalkers from possessing or purchasing a gun. On April 4, a strong bipartisan majority in the House passed legislation to reauthorize the Violence Against Women Act that included a provision based on my bill.

- Have you had a chance to review my legislation?
- Do you agree that we should keep guns out of the hands of domestic abusers, regardless of whether they are married to a victim?

Questions for the Record for Attorney General William Barr
Submitted by Senator Richard Blumenthal
May 8, 2019

1. On May 8, 2019, the *Washington Post* reported that you sent a letter to President Trump advising him that he may assert executive privilege over the entirety of the Mueller Report because the House Judiciary Committee had “declined to grant sufficient time” for the Justice Department to review the materials underlying the Report.¹
 - On what legal basis did you advise the White House to assert executive privilege over the entire Special Counsel Report?
 - Do you believe that *United States v. Nixon* was correctly decided?
 - Can executive privilege be waived if the information that is subject to the privilege has already been revealed?
 - Can executive privilege be used to shield the public and/or Congress from obtaining information about criminal wrongdoing by the president?

2. FBI Director Christopher Wray appeared before the Senate Appropriations Committee on Tuesday, May 7, 2019 to testify on the president’s 2020 budget request. During the hearing, Senator Jeanne Shaheen asked him about your use of the word “spying” in your testimony before the same committee a month earlier. He responded, “That’s not the term I would use.”
 - Do you stand by your statement in the April 11th, 2019 hearing before the Senate Appropriations Committee that “spying did occur” in light of the FBI Director’s disagreement with your characterization of the FBI’s role in investigating the Trump campaign in 2016?
 - What was your basis for the statement that “spying” occurred against the Trump campaign?
 - What evidence do you currently have that supports this assertion?

3. In response to a question from Senator Chris Coons, who asked you “what if a foreign adversary, let’s now say north Korea, offers a presidential candidate dirt on a competitor in 2020. Do you agree with me the campaign should immediately contact the FBI?” You answered: “If a foreign intelligence service does, yes.” As you know, the Federal Election Campaign Act (FECA) prohibits campaigns and candidates from soliciting or accepting anything of value from any foreign national.
 - Why did you limit your answer to Senator Coons’s question to a “foreign intelligence service”?
 - Is it your position that the FECA’s foreign national contribution ban, and corollary ban on campaigns and candidates from accepting such illegal foreign contributions, only applies to foreign intelligence services?

¹ https://www.washingtonpost.com/politics/barr-to-trump-invoke-executive-priviledged-over-redacted-mueller-materials/2019/05/07/51c52600-713e-11e9-b5ca-3d72a9fa8ff1_story.html?utm_term=.aaab98c40944

4. Have you ever revealed any information in any of the redacted portions of Special Counsel Mueller's Report to anyone at the White House?
5. On multiple occasions, you have asserted that President Trump has been "falsely accused." Of what has he been falsely accused?
6. In Special Counsel Mueller's Report, he described an incident in which President Trump directed former White House Counsel Don McGahn to write a letter "for our files" denying the New York Times story indicating that the president had ordered McGahn to fire Robert Mueller. The Mueller report states, "Substantial evidence indicates that in repeatedly urging McGahn to dispute that he was ordered to have the Special Counsel terminated, the President acted for the purpose of influencing McGahn's account in order to deflect or prevent scrutiny of the President's conduct toward the investigation."
 - Is falsifying evidence a crime?
 - Is it a crime for a defendant to order his attorney to put a statement in writing, knowing that the statement is materially false, anticipating that it will be obtained by investigators in a criminal probe?
7. On May 6, 2019, hundreds of former Justice Department officials stated in an open letter that President Trump would be facing multiple felony charges for obstruction of justice stemming from the Special Counsel's investigation if he were not the sitting president. Specifically, the letter states, "We believe strongly that, but for the OLC memo, the overwhelming weight of professional judgment would come down in favor of prosecution for the conduct outlined in the Mueller Report." The letter goes on to state, "We emphasize that these are not matters of close professional judgment ... to look at these facts and say that a prosecutor could not probably sustain a conviction for obstruction of justice—the standard set out in Principles of Federal Prosecution—runs counter to logic and our experience."
 - Do you agree with the statement in this letter that the facts outlined in the Mueller report could "sustain a conviction for obstruction of justice—the standard set out in Principles of Federal Prosecution"?
 - In your view, would any of the conduct described by Special Counsel Mueller in his report be prosecutable on obstruction of justice charges?
8. The Special Counsel's Report states that the OLC opinion on non-indictment of a sitting president recognizes that "a President does not have immunity after he leaves office."
 - Can a president be indicted after leaving office?
9. During your confirmation hearing before the Senate Judiciary Committee, you testified that offering a pardon in exchange for non-cooperation with a criminal investigation would constitute obstruction of justice. The Special Counsel's report states that "In January 2018, Manafort told Gates that he had talked to the President's personal counsel

and they were ‘going to take care of us.’ Manafort told Gates it was stupid to plead, saying that he had been in touch with the President’s personal counsel and repeating that they should ‘sit tight’ and ‘we’ll be taken care of.’” After Manafort’s bail was revoked, the president’s personal attorney, Rudy Giuliani, gave a series of interviews in which he raised the possibility of a pardon for Manafort. Giuliani told the New York Daily News, for example, “when the whole thing is over, things might get cleaned up with some presidential pardons.”

- Do you stand by your statement at your confirmation hearing that offering a pardon in exchange for non-cooperation with a criminal investigation is obstruction of justice?

10. In a case before the 6th Circuit in 2017, *United States v. Greer*, attorneys at the Department of Justice argued: “if the government were required to prove that the underlying offense occurred, as [the appellant] contends, a defendant who obstructed the investigation or prosecution of the offense would be able to benefit from obstruction that successfully persuaded a grand jury not to indict or a petit jury not to convict. . . . This cannot be the law.”² In a case before the 7th Circuit in 2017, *United States v. Ranjel*, attorneys at the Department of Justice argued: “the government does not have to prove that there was an actual hindrance or prejudice to the government in order for the Court to find that this defendant willfully obstructed justice.”³

- Do you disagree with these statements?

² Brief for the United States as Appellee, 2017 WL 490067 (C.A.6), 16–17; *United States v. Greer*, 872 F.3d 790, 798 (6th Cir. 2017).

³ Plaintiff-Appellee Brief, 2016 WL 4729798 (C.A.7), 35; *United States v. Ranjel*, 872 F.3d 815, 820 (7th Cir. 2017).

TED W. LIEU
33RD DISTRICT, CALIFORNIA

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May 22, 2019

The Honorable William P. Barr
Attorney General of the United States
Department of Justice
Washington, D.C.

Dear Attorney General Barr:

Earlier today, the President stated emphatically, "I don't do cover-ups, you people know that." He also stated, "I'm the most transparent president, probably in the history of this country."

In light of the President's statements, please let me know what time tomorrow I can come over and review the unredacted Mueller report. I simply request the same access that you gave to Republican Congressman Doug Collins.

Sincerely,



Ted W. Lieu
Member of Congress

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Sixteenth Congress

May 24, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Mr. Pat Cipollone
Counsel to the President
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20002

Dear Attorney General Barr and Mr. Cipollone:

I write to follow up on my letters of May 10, 2019 to Attorney General Barr and May 16, 2019 to Mr. Cipollone describing the efforts to date by the Judiciary Committee to reach a reasonable accommodation regarding the Committee's April 18, 2019 subpoena, and expressing the Committee's willingness to engage in further negotiations to resolve this dispute. I also proposed in both letters that the Committee's staff meet with your staffs to determine if a reasonable accommodation could be reached. As you know, I've received no response to my letters and the Committee's offer to engage in further accommodation discussions.

We write yet again in an effort to encourage both the Department of Justice and the White House to engage in accommodation discussions to see if an agreement can be reached before the House takes action on the floor and prior to the Committee making any decisions regarding potential litigation. To facilitate such discussions, the Committee is providing further details regarding the documents and information that it is willing to accept as satisfaction of its subpoena in a final attempt to avoid the need for subpoena enforcement litigation.

To that end and as we previously offered, the Committee is prepared to identify specific materials that if produced would be deemed to satisfy the subpoena. These are documents referenced in Volume II of the Special Counsel's report that primarily consist of (i) FBI interview reports (commonly known as "302s") describing statements given by firsthand witnesses to relevant events, (ii) a limited set of notes taken by witnesses and relied on by the

Special Counsel's office, and (iii) a small number of White House memoranda and communications specifically cited in the report.¹

A complete list of the specific documents is attached. Within that limited universe of documents, we are further prepared to prioritize production of materials that would provide the Committee with the most insight into certain incidents where the Special Counsel found "substantial evidence" of obstruction of justice. Those incidents include (1) President Trump's efforts to have Special Counsel Mueller removed; (2) President Trump's efforts to have White House Counsel Don McGahn create a fraudulent record denying that incident; and (3) President Trump's efforts to have Attorney General Sessions reverse his recusal and limit the scope of the Special Counsel's investigation. Mr. McGahn's statements to the Special Counsel's office, for example, are cited more than 70 times in descriptions of incidents (1) and (2) and, therefore, are of particular importance to the Committee's work.

In addition, as to redacted portions of the report that are not subject to Federal Rule of Criminal Procedure 6(e), the Committee is prepared to limit its review to members of the Judiciary Committee and appropriate staff, subject to the condition that the Department has insisted on – that they cannot discuss what they have seen with anyone else (except that the Committee has requested the ability for counsel to share the materials with a court under seal in the event of litigation). As you know, Congress has ample means of providing for safe storage of these materials, as it is routinely entrusted with the responsibility to protect classified and other sensitive information. Although the Department's proposed conditions are a departure from accommodations made by previous Attorneys General of both parties (as is our proposed compromise), the Committee is nevertheless prepared to accept this modified requirement as a concession.

Lastly, as we have previously made clear, the Committee is not seeking from the Department any information or documents that are properly subject to Rule 6(e).² Similarly, the Committee is also prepared to relieve the Department of the obligation to produce the underlying documents not specifically identified in the Mueller Report and contained in the limited set of Volume II referenced documents listed in the attachment, if an agreement can be reached.

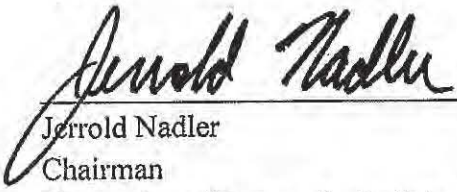
As a result of the Committee's unilateral accommodation efforts, the Department would satisfy the Committee's subpoena by producing the limited set of materials from Volume II of the Mueller Report that the Committee has identified, and permitting only the Judiciary Committee members and appropriate staff to review the non-Rule 6(e) redactions under the conditions the Department has requested.

¹ The Committee is prepared to discuss whether any redactions of these documents would be appropriate.

² The Committee intends to seek a court order permitting the Committee to receive those portions of the report redacted on Rule 6(e) grounds and potentially related referenced documents.

Notwithstanding the President's stated intent to block all congressional subpoenas, the Committee also remains prepared to meet with the Department and the White House to ascertain if an acceptable accommodation can be reached. I am personally willing to meet with you both in an effort to achieve a suitable compromise.

Sincerely,



Jerrold Nadler
Chairman
House Committee on the Judiciary

cc: Doug Collins
Ranking Member

Documents Referenced in Volume II of the Special Counsel's Report

FBI Interview Reports (302s)

The Committee requests 302 reports for the following individuals, identified by the following dates:

- Stephen K. Bannon (2/12/18; 2/14/18; 10/26/18; 1/18/19)
- Dana Boente (1/31/18)
- James Burnham (11/3/17)
- Chris Christie (2/13/19)
- Michael Cohen (8/7/18; 9/12/18; 10/17/18; 11/12/18; 11/20/18; 3/19/19)
- James Comey (11/15/17)
- Rick Dearborn (6/20/18)
- Uttam Dhillon (11/21/17)
- Annie Donaldson (11/6/17; 4/2/18)
- John Eisenberg (11/29/17)
- Michael Flynn (11/17/17; 11/20/17; 11/21/17; 1/19/18)
- Counsel to Michael Flynn (name not specified) (3/1/18)
- Rick Gates (4/10/18; 4/11/18; 4/18/18; 10/25/18)
- Hope Hicks (12/7/17; 12/8/17; 3/13/18)
- Joseph Hunt (2/1/18)
- John Kelly (8/2/18)
- Jared Kushner (4/11/18)
- Corey Lewandowski (4/6/18)
- Paul Manafort (10/1/18)
- Andrew McCabe (8/17/17; 9/26/17)
- Mary McCord (7/17/17)
- K.T. McFarland (12/22/17)
- Don McGahn (11/30/17; 12/12/17; 12/14/17; 3/8/18; 2/28/19)
- Stephen Miller (10/31/17)
- Rob Porter (4/13/18; 5/8/18)
- Reince Priebus (10/13/17; 1/18/18; 4/3/18)
- Rod Rosenstein (5/23/17)
- Christopher Ruddy (6/6/18)
- James Rybicki (6/9/17; 6/13/17; 6/22/17; 11/21/18)
- Sarah Sanders (7/3/18)
- Jeff Sessions (1/17/18)
- Sean Spicer (10/16/17)
- Sally Yates (8/15/17)

Contemporaneous Notes

The Committee requests notes taken by the following individuals on the following dates:

- Annie Donaldson (3/2/17; 3/5/17; 3/6/17; 3/12/17; 3/16/17; 3/21/17; 4/11/17; 5/9/17; 5/10/17; 5/31/17)
- Joseph Hunt (5/3/17; 5/8/17; 5/9/17; 5/17/17; 5/18/17; 5/30/17; 7/21/17)
- John Kelly (2/5/18; 2/6/18)
- Corey Lewandowski (6/19/17)
- Stephen Miller (5/5/17)
- Rob Porter (7/10/17; 10/16/17; 12/6/17; 1/27/18; undated notes identified as "SC_RRP000053")
- Reince Priebus (7/22/17)

Memoranda and Communications

The Committee requests the following memoranda and communications. Dates and Bates numbers referenced in the Special Counsel's report are included where available, but Bates numbers may not encompass the entirety of the page ranges for each document:

- Draft Memorandum to file from Office of Counsel to the President (2/15/17) (SCR15_000198 - SCR15_000202)
- Draft Termination Letter to FBI Director Comey (SCR013c_000003 - SCR013c_000006)
- E-mail from James Burnham to Annie Donaldson (2/16/17) (SCR004_00600)
- McFarland Memorandum for the Record (2/26/17) (KTMF_00000047 - KTMF_00000048)
- White House Counsel's Office Memorandum (SCR016_000002 - SCR016_000005)
- White House Counsel's Office Memorandum re: "Flynn Tick Tock" (SCR015_000278)



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 4, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

I write in response to your May 24, 2019 letter to the Attorney General and the Counsel to the President, as well as your May 10 letter to the Attorney General, concerning the April 18, 2019 subpoena (“Subpoena”) to the Department of Justice (“Department”) by the House Committee on the Judiciary (“Committee”).

Your May 24, 2019 letter expresses “the Committee’s willingness to engage in further negotiations to resolve this dispute,” and purports to offer “to identify specific materials that if produced would be deemed to satisfy the subpoena” while also prioritizing requests for materials from the Department. As you know, your letter comes well after the Committee rejected good faith offers by the Department to accommodate the Committee’s Subpoena in much the same manner. Instead of pursuing the Department’s proposed framework for potential production, the Committee precipitously voted on May 8, 2019, to recommend that the House of Representatives hold the Attorney General in contempt of Congress. As we have previously communicated, that vote was premature and unnecessary.¹ The Department was disappointed by the Committee’s abrupt termination of ongoing negotiations aimed at reaching a reasonable accommodation that respects both sides’ legitimate interests regarding the materials sought. Further, the Department is disappointed by news reports indicating that Democratic leaders have scheduled a contempt vote in the House of Representatives for June 11, 2019.

Additionally, your letter contains multiple inaccuracies regarding the Subpoena, the interactions between the Department and the Committee to date, and the Department’s proposal to establish a framework for potential production of documents to the Committee. The Department will be pleased to correct the record in separate correspondence to the Committee.

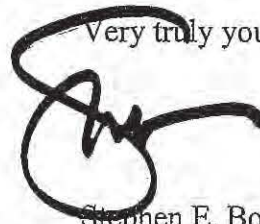
In your May 24, 2019 letter, the Committee appears to recognize that the Subpoena is unworkably overbroad and offers—for the first time—to narrow the Subpoena’s scope to cover a much more limited set of documents. The Department believes that the Committee’s new offer reflects a more reasonable request and could mitigate some of the legal barriers to disclosure that we have discussed. To that end, the Department is prepared to resume negotiations with the Committee regarding accommodation of its narrowed Subpoena, provided that the Committee

takes reasonable steps to restore the *status quo ante* by mooted its May 8 vote and removing any threat of an imminent vote by the House of Representatives to hold the Attorney General in contempt. Indeed, given the Committee's offer to narrow the scope of its Subpoena, it would hardly make sense for the full House of Representatives to act upon the Committee's prior recommendation to hold the Attorney General in contempt for not complying with a Subpoena that even the Committee now appears to acknowledge was overbroad in seeking immediate disclosure of the entirety of the Special Counsel's investigative files.

As we have made clear from the outset, the Department remains mindful of its constitutional obligation and its desire to explore ways it can accommodate, to the extent possible, Congress's legitimate interests in materials relating to the Special Counsel's investigation, as the Department's recent dealings with your colleagues on the House Permanent Select Committee on Intelligence (HPSCI) demonstrate. As you know, the Department recently negotiated a mutually acceptable accommodation with HPSCI regarding a similar subpoena for materials relating to the Special Counsel's investigation. Accordingly, the Department has been able to produce documents for *in camera* review in a secure setting in response to a narrowed and more reasonable request. The only reason we were not able to engage in a similar accommodation with the Judiciary Committee is that you insisted on taking the unnecessary step of holding a contempt vote less than three weeks after issuing the Subpoena, at a time when negotiations were ongoing.

We look forward to your confirmation that the contempt resolution has been withdrawn and, following such confirmation, to returning to our efforts to accommodate the Committee. We would be happy to meet to discuss these matters further.

Very truly yours,



Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member

ⁱ The Committee held its contempt vote only 19 days after issuing the subpoena. Traditionally, Congressional committees have only proceeded with contempt votes after lengthy periods of negotiations have failed to reach an accommodation. For example, the House Oversight and Government Reform Committee negotiated with the Department over the Operation Fast and Furious subpoena for months, and only voted to cite Attorney General Holder for contempt 252 days after issuing its subpoena. That same committee waited 325 days after an initial subpoena before voting to hold in contempt former Internal Revenue Service official Lois Lerner. Since 1975, committees and subcommittees have averaged 103 days between issuing a subpoena to an executive branch official and holding a contempt vote. By any measure, the Committee rushed its decision and bears responsibility for the termination of the accommodation process.