

**U.S. House of Representatives**  
**Committee on the Judiciary**  
Washington, DC 20515–6216  
One Hundred Sixteenth Congress

May 8, 2020

The Honorable Michael E. Horowitz  
Inspector General  
U.S. Department of Justice, Office of the Inspector General  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Inspector General Horowitz:

Like many Americans, we are deeply concerned by the Department's decision to move to dismiss the criminal case against Michael Flynn, who briefly served as President Trump's National Security Advisor. Under a generous plea deal with Special Counsel Robert Mueller, Mr. Flynn was allowed to plead guilty to a single charge of making false statements to federal investigators and avoid prosecution for other serious alleged crimes.<sup>1</sup>

In measuring the impact of the decision to dismiss these charges, it is important to observe the divide between Attorney General William Barr and the career staff at the Department of Justice. Hours before the government moved to dismiss the case, Brandon Van Grack—an experienced prosecutor who had worked the Flynn case from its inception—abruptly withdrew from the matter. On the merits, the government's argument for dismissing the case appears to be inaccurate, politically biased, and inconsistent with the Department's own guidelines.<sup>2</sup> The government's brief is signed only by Timothy Shea—the acting U.S. Attorney for the District of Columbia, promoted from the Attorney General's personal staff to his current post earlier this year—and not by a single career prosecutor.<sup>3</sup>

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<sup>1</sup> Michael D. Shear and Adam Goldman, *Michael Flynn Pleads Guilty to Lying to the F.B.I. and Will Cooperate with Russia Inquiry*, N.Y. TIMES, Dec. 1, 2017; see also James V. Grimaldi, et al., *Mueller Probes Flynn's Role in Alleged Plan to Deliver Cleric to Turkey*, WALL ST. JOURNAL, Nov. 10, 2017.

<sup>2</sup> Susan Hennessey et al., *An ugly day for the Justice Department*, LAWFARE, May 7, 2020.

<sup>3</sup> *U.S. v. Flynn*, Crim. No 17-232 (*Government's Motion to Dismiss the Criminal Information against the Defendant Michael T. Flynn*) (D.D.C. 2020). See also, Matt Zapotosky and Devlin Barrett, *Barr faces fresh scrutiny over Stone sentencing controversy*, WASH. POST, Feb. 12, 2020.

By itself, the decision to dismiss charges against Mr. Flynn would smack of corruption and unacceptable political influence in an ongoing criminal matter: President Trump tweeted in defense of his former advisor, and one week later Mr. Flynn is poised to walk free.<sup>4</sup>

But this is hardly the first time that Attorney General Barr has appeared to reach into an ongoing criminal case to do the President's political bidding:

- On March 24, 2019, the Attorney General sent a four-page “summary” of the Mueller Report to the House and Senate Judiciary Committees—a summary that sought to minimize the Special Counsel’s findings about the President and his associates. Special Counsel Mueller later wrote in protest: the gross mischaracterizations in Barr’s memo sought to create “public confusion” and threatened “to undermine a central purpose for which the Department appointed the Special Counsel.”<sup>5</sup>
- On July 17, 2019, the Department quietly closed its investigation into certain campaign finance crimes allegedly committed by President Trump and his longtime attorney Michael Cohen.<sup>6</sup>
- On February 11, 2020, the Department abruptly reversed course and argued for a more lenient sentence for Roger Stone, a longtime confidant to President Trump. As with the Flynn case, the Department appeared to have reacted to a series of public statements from the President.<sup>7</sup> As with the Flynn case, all four assistant U.S. Attorneys prosecuting Roger Stone chose to withdraw from the case rather than support the Department’s position.<sup>8</sup>
- On March 16, 2020, the Department suddenly dropped its two-year prosecution of a Russian company alleged to have interfered in the 2016 presidential election and charged with conspiring to defraud the United States.<sup>9</sup>

And these are merely instances related to the Attorney General’s work to undermine the findings of the Special Counsel. In many other cases, both criminal and civil, the current leadership of

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<sup>4</sup> Quint Forney, ‘*Dirty, filthy cops*’: Trump blasts Michael Flynn investigation after new FBI documents released, POLITICO, Apr. 30, 2020.

<sup>5</sup> Natasha Bertrand et al., *Mueller complained to Barr about Russia report memo*, POLITICO, Apr. 30, 2019.

<sup>6</sup> Kristine Phillips and Kevin Johnson, *Justice Department ends inquiry of hush-money payments in final months of Donald Trump’s campaign, judge says*, USA TODAY, July 17, 2019.

<sup>7</sup> Morgan Chalfant, *Trump criticizes ‘very unfair’ sentencing recommendation for Roger Stone*, THE HILL, Feb. 11, 2020.

<sup>8</sup> Matt Zapotsky, et al., *Prosecutors quit amid escalating Justice Dept. fight over Roger Stone’s prison term*, WASH. POST, Feb. 11, 2020.

<sup>9</sup> Spencer S. Hsu, *Justice Dept. abandons prosecution of Russian firm indicted in Mueller election interference probe*, WASH. POST, Mar. 16, 2020.

the Department has taken extraordinary steps to protect the President's allies and punish his enemies, real and imagined.<sup>10</sup> In our view, these cases represent a systematic breakdown of impartial justice at the Department of Justice and suggest overt political bias, if not outright corruption.

Of course, the Hatch Act prohibits Department of Justice employees from engaging in partisan political activities in the course of official business.<sup>11</sup> The Department applies the most rigorous such restrictions to its senior leadership "to ensure that there is not an appearance that politics plays any part in the Department's day-to-day operations."<sup>12</sup> Federal law also disqualifies any DOJ employee "from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof."<sup>13</sup> Simply put, the Attorney General is prohibited from putting his thumb on the scale in favor of the President, time and time again.

We write to request an investigation by your office into a pattern of conduct that includes improper political interference, ignoring standards for recusal, and abrogating Attorney General guidelines, among other improper considerations. We ask that your office review the events highlighted above, as well as any other related actions you find during the course of your investigation. The American people deserve to know the full extent of the politicization of the Department of Justice. They deserve a Department that is guided by the facts and the law, and not by the President's political interests.

Sincerely,



Jerrold Nadler  
Chairman



Zoe Lofgren  
Member of Congress

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<sup>10</sup> See, e.g., William K. Rashbaum and Katie Benner, *Paul Manafort Seemed Headed to Rikers. Then the Justice Department Intervened*, N. Y. TIMES, June 17, 2019; Jesse Eisinger and Kevin Wack, *How Trump's Political Appointees Overruled Tougher Settlements With Big Banks*, PROPUBLICA, Aug. 2, 2019; Devlin Barrett, et al., *William Barr personally asked foreign officials to aid inquiry into CIA, FBI activities in 2016*, WASH. POST, Sep. 30, 2019; Hiroko Tabuchi, *General Motors Sides With Trump in Emissions Fight, Splitting the Industry*, N. Y. TIMES, Oct. 28, 2019; Matt Zapotosky and Devlin Barrett, *Barr acknowledges Justice Dept. has created 'intake process' to vet Giuliani's information on Bidens*, WASH. POST, Feb. 10, 2020; Jesse Eisinger and James Bandler, *Walmart Was Almost Charged Criminally Over Opioids. Trump Appointees Killed the Indictment*, PROPUBLICA, Mar. 25, 2020.

<sup>11</sup> 5 U.S.C. §§ 7323(a) and 7324(a).

<sup>12</sup> *Memorandum for All Department of Justice Non-Career Employees*, Lee J. Lotfthus, Asst. Attorney General for Administration, Aug. 16, 2018.

<sup>13</sup> 28 U.S.C. § 528; 28 C.F.R. § 45.2.



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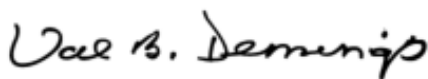
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Veronica Escobar  
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cc: The Honorable Jim Jordan, Ranking Member, House Committee on the Judiciary