

O'Callaghan, Edward C. (ODAG)

From: O'Callaghan, Edward C. (ODAG)
Sent: Wednesday, May 1, 2019 6:18 PM
To: Rosenstein, Rod (ODAG); Ellis, Corey F. (ODAG); Peterson, Andrew (ODAG)
Subject: FW: 05/01 AG Barr's SJC Transcript
Attachments: 2019.5.1_SJC Transcript.pdf

Edward C. O'Callaghan
202-514-2105

From: Douglas, Danielle E. (OLA) <daedouglas@jmd.usdoj.gov>
Sent: Wednesday, May 1, 2019 4:38 PM
To: Boyd, Stephen E. (OLA) <seboyd@jmd.usdoj.gov>; Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Moran, John (OAG) <jomoran@jmd.usdoj.gov>; Burnham, James M. (CIV) <jburnham@CIV.USDOJ.GOV>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Engel, Steven A. (OLC) <(b)(6) per OLC>; Gannon, Curtis E. (OLC) <(b)(6) per OLC>; Kupec, Kerri (OPA) <kkupec@jmd.usdoj.gov>
Cc: Vance, Alexa (OLA) <avance@jmd.usdoj.gov>
Subject: 05/01 AG Barr's SJC Transcript

Danielle Douglas
Office of Legislative Affairs
U.S. Department of Justice
Office: 202-514-0427
Cell: (b) (6)
Email: danielle.e.douglas@usdoj.gov

Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Monday, May 13, 2019 5:13 PM
To: DOJ Correspondence (SMO)
Cc: Shirley A McKay (OLA) (smckay@jmd.usdoj.gov)
Subject: FW: 5-1-19 DOJ's Investigation of Russian Interference Hearing - Written Questions (Barr)
Attachments: Barr Cover.pdf; Booker QFRs for Barr.docx; Coons QFRs for Barr.docx; Durbin QFRs for Barr.docx; Feinstein QFRs for Barr.docx; Klobuchar QFRs for Barr.docx; Whitehouse QFRs for Barr.docx; Blumenthal QFRs for Barr.docx

Please log and assign to OLA.

From: Boyd, Stephen E. (OLA) <seboyd@jmd.usdoj.gov>
Sent: Monday, May 13, 2019 4:32 PM
To: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>; Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>
Subject: FW: 5-1-19 DOJ's Investigation of Russian Interference Hearing - Written Questions (Barr)

Last Wednesday.

SB

From: Covey, Jason (Judiciary-Rep) (b) (6) >
Sent: Wednesday, May 8, 2019 5:54 PM
To: Boyd, Stephen E. (OLA) <seboyd@jmd.usdoj.gov>
Cc: Ferguson, Andrew (Judiciary-Rep) (b) (6) >; DiZinno, Richard (Judiciary-Rep) (b) (6) >; Somers, Zach (Judiciary-Rep) (b) (6) >
Subject: 5-1-19 DOJ's Investigation of Russian Interference Hearing - Written Questions (Barr)

Mr. Boyd,

Attached please a letter from Chairman Graham and written questions submitted to the Honorable William Barr for the record following the May 1, 2019 Senate Judiciary Committee hearing entitled "The Department of Justice's Investigation of Russian Interference with the 2016 Presidential Election."

Thank you.

Jason A. Covey
Hearing Clerk | Senate Judiciary Committee
202-224-5225
<http://judiciary.senate.gov>

LINDSEY O. GRAHAM, SOUTH CAROLINA, CHAIRMAN

CHARLES E. GRASSLEY, IOWA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
THOM TILLIS, NORTH CAROLINA
JONI ERNST, IOWA
MIKE CRAPO, IDAHO
JOHN KENNEDY, LOUISIANA
MARSHA BLACKBURN, TENNESSEE

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

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:

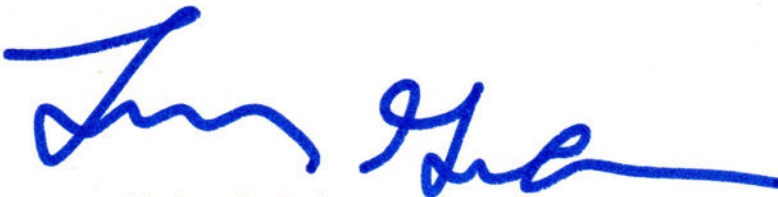
Thank you for your testimony at the Senate Committee on the Judiciary hearing entitled "The Department of Justice's Investigation of Russian Interference with the 2016 Presidential Election." Attached are written questions from members. We look forward to including your answers to these questions, along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

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-privilege-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).

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
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?

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
Attorney General William Barr
Questions for the Record
Submitted August 26, 2020**

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?

**“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 understand 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?

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Saturday, March 23, 2019 7:52 PM
To: Rosenstein, Rod (ODAG); Rabbitt, Brian (OAG); O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: draft memo
Attachments: AG Memo 3-23 1730.docx

Attached is the current draft of the memo. I'll probably take another pass through it this evening or first thing in the morning, and recirculate before 10:30 am.

But for those with time and interest to keep going now, feel free to take a pass. Steve

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

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Saturday, March 23, 2019 11:45 PM
To: Engel, Steven A. (OLC); Rosenstein, Rod (ODAG); O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: RE: draft memo
Attachments: AG Memo 3-23 1730 bcr.docx

A few initial thoughts and comments in the attached.

From: Engel, Steven A. (OLC) (b)(6) per OLC
Sent: Saturday, March 23, 2019 7:52 PM
To: Rosenstein, Rod (ODAG) <rosenstein@jmd.usdoj.gov>; Rabbitt, Brian (OAG) <brabbitt@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: draft memo

Duplicative Material

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, March 24, 2019 7:57 AM
To: Rosenstein, Rod (ODAG)
Cc: Rabbitt, Brian (OAG); O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: Re: draft memo

Thanks!

Sent from my iPad

On Mar 24, 2019, at 1:34 AM, Rosenstein, Rod (ODAG) <rosenstein@jmd.usdoj.gov> wrote:

A few more proposed edits. Sorry I am working from my phone.

1. Page 4: (b) (5)

2. Page 4: (b) (5)

3. Page 5: (b) (5)

NOTE: (b) (5)

4. Page 6: (b) (5)

5. Page 6: (b) (5)

6. Page 7: (b) (5)

7. Page 7: (b) (5)

(b) (5) [REDACTED]

8. (b) (5) [REDACTED]

[REDACTED]

9. (b) (5) [REDACTED]

[REDACTED]

10. (b) (5) [REDACTED]

[REDACTED]

On Mar 23, 2019, at 11:44 PM, Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov> wrote:

Duplicative Material



Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, March 24, 2019 9:20 AM
To: O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: RE: draft memo
Attachments: AG Memo 3-23 900.docx

Here's the latest, with (b) (5)

. I'm going to be away from my computer for about an hour or so. Do either of you want to take a crack at implementing?

From: Rabbitt, Brian (OAG)
Sent: Saturday, March 23, 2019 11:45 PM
To: Engel, Steven A. (OLC) <saengel@jmd.usdoj.gov>; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) <hcwhitaker@jmd.usdoj.gov>
Subject: RE: draft memo

Duplicative Material

O'Callaghan, Edward C. (ODAG)

From: O'Callaghan, Edward C. (ODAG)
Sent: Sunday, March 24, 2019 10:57 AM
To: Rosenstein, Rod (ODAG)
Subject: FW: draft memo
Attachments: AG Memo 3-24 1030.docx

Edward C. O'Callaghan
202-514-2105

From: Whitaker, Henry C. (OLC) (b)(6) per OLC
Sent: Sunday, March 24, 2019 10:32 AM
To: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>
Cc: Engel, Steven A. (OLC) (b)(6) per OLC
Subject: RE: draft memo

Here's a suggested (b)(5) per OLC and does a few other minor things.

I have not gone through the whole memo, but rather just addressed Brian's comments for now. I will turn to that now absent objection.

From: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 10:30 AM
To: Whitaker, Henry C. (OLC) (b)(6) per OLC
Cc: Engel, Steven A. (OLC) (b)(6) per OLC
Subject: RE: draft memo

A suggestion to address (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I think we can (b) (5)

[REDACTED]

Edward C. O'Callaghan
202-514-2105

From: Whitaker, Henry C. (OLC) (b)(6) per OLC
Sent: Sunday, March 24, 2019 9:29 AM
To: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>
Cc: Engel, Steven A. (OLC) (b)(6) per OLC >
Subject: Re: draft memo

I can take the pen in 15 min

can take the pen in 20 min

On Mar 24, 2019, at 9:27 AM, O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov> wrote:

I'll be in before 10. I'll take a look.

Edward C. O'Callaghan
202-514-2105

On Mar 24, 2019, at 9:20 AM, Engel, Steven A. (OLC) <(b)(6) per OLC > wrote:

Duplicative Material

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, March 24, 2019 12:58 PM
To: Rosenstein, Rod (ODAG); Rabbitt, Brian (OAG)
Cc: O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: RE: draft memo
Attachments: AG Memo 3-24 1300.docx

Attached is the latest draft. This should include all of the edits received to date. I'm going to re-read it myself as well, but in the interest of time, thought it ripe to circulate.

From: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 1:34 AM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: Engel, Steven A. (OLC) <(b)(6) per OLC> O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) <(b)(6) per OLC>
Subject: Re: draft memo

Duplicative Material



Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, March 24, 2019 1:10 PM
To: Rabbitt, Brian (OAG)
Subject: RE: new paragraph

correct

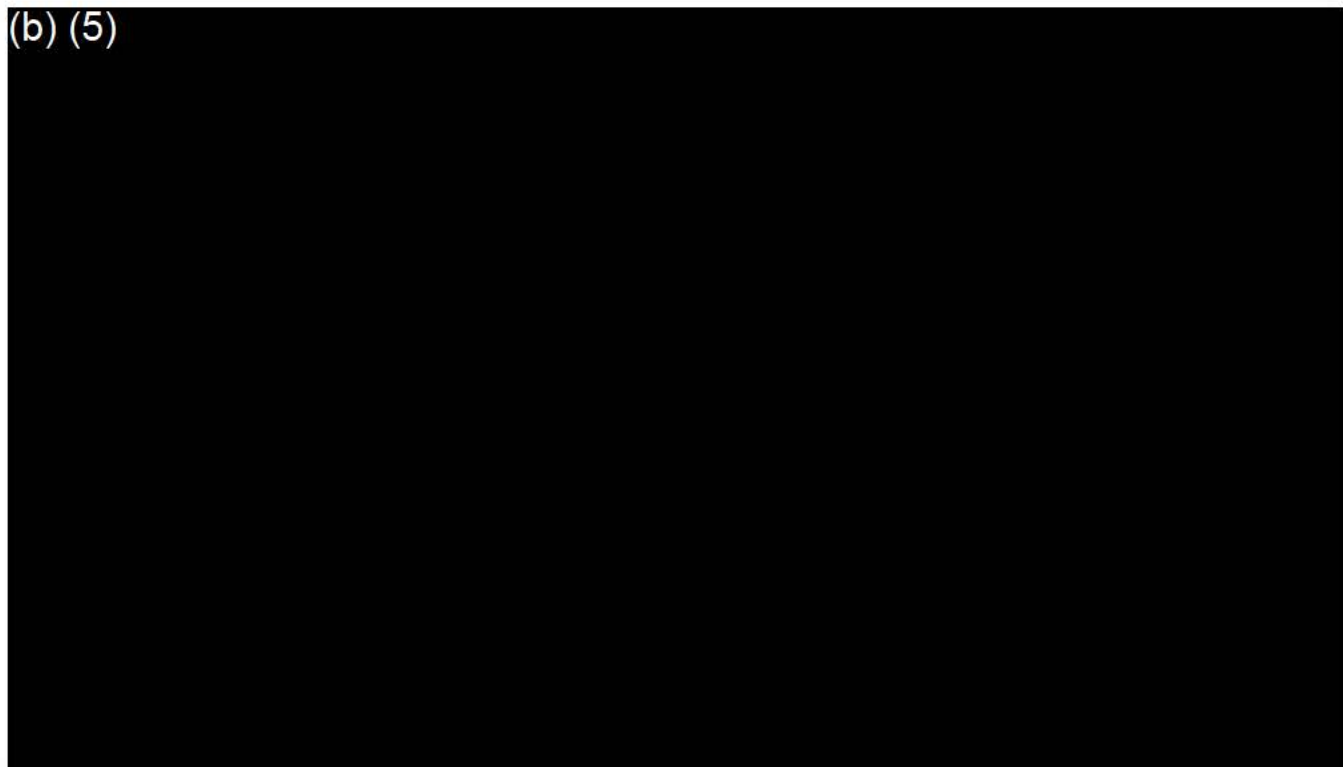
From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 1:03 PM
To: Engel, Steven A. (OLC) (b)(6) per OLC
Subject: RE: new paragraph

For the memo, not the letter, correct?

From: Engel, Steven A. (OLC) (b)(6) per OLC >
Sent: Sunday, March 24, 2019 1:01 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Subject: new paragraph

Here's the new paragraph:

(b) (5)



Steven A. Engel

Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b)(6) per OLC
[REDACTED]

Rosenstein, Rod (ODAG)

From: Rosenstein, Rod (ODAG)
Sent: Sunday, March 24, 2019 1:40 PM
To: Engel, Steven A. (OLC); Rabbitt, Brian (OAG)
Cc: O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: RE: draft memo
Attachments: AG Memo 3-24 1300.docx

Proposed edits.

From: Engel, Steven A. (OLC) (b)(6) per OLC
Sent: Sunday, March 24, 2019 12:58 PM
To: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC)
(b)(6) per OLC
Subject: RE: draft memo

Duplicative Material



Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Sunday, March 24, 2019 2:09 PM
To: Rosenstein, Rod (ODAG); Rabbitt, Brian (OAG)
Cc: O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: RE: draft memo

done

From: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 2:08 PM
To: Engel, Steven A. (OLC) (b)(6) per OLC; Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC >
Subject: RE: draft memo

(b) (5)

From: Engel, Steven A. (OLC) (b)(6) per OLC
Sent: Sunday, March 24, 2019 2:03 PM
To: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: draft memo

I take the point (b) (5)

(b) (5)

From: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 1:59 PM
To: Engel, Steven A. (OLC) (b)(6) per OLC; Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: draft memo

(b) (5)

From: Engel, Steven A. (OL (b)(6) per OLC [REDACTED])>
Sent: Sunday, March 24, 2019 1:52 PM
To: Rosenstein, Rod (ODAG) <rosenstein@jmd.usdoj.gov>; Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC [REDACTED]
Subject: RE: draft memo

(b) (5)

What do you think about this:

(b) (5)

From: Rosenstein, Rod (ODAG) <rosenstein@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 1:40 PM
To: Engel, Steven A. (OL (b)(6) per OLC [REDACTED]); Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC [REDACTED]
Subject: RE: draft memo

Duplicative Material

O'Callaghan, Edward C. (ODAG)

From: O'Callaghan, Edward C. (ODAG)
Sent: Sunday, March 24, 2019 3:18 PM
To: Weinsheimer, Bradley (ODAG)
Subject: FW: Draft Letter
Attachments: AG Memo 3-24 1300.docx

Edward C. O'Callaghan
202-514-2105

From: Engel, Steven A. (OLC) <(b)(6) per OLC>
Sent: Sunday, March 24, 2019 2:18 PM
To: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) <(b)(6) per OLC>
Subject: RE: Draft Letter

OK. here's the latest memo, btw, although we presumably don't need to finalize that as soon.

From: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 2:17 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Engel, Steven A. (OLC) <(b)(6) per OLC>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) <(b)(6) per OLC>
Subject: RE: Draft Letter

Let's meet now to review the final version.

From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 2:16 PM
To: Engel, Steven A. (OLC) <(b)(6) per OLC>; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) <(b)(6) per OLC>
Subject: RE: Draft Letter

We need to go final at 2:25.

From: Engel, Steven A. (OLC) <(b)(6) per OLC>
Sent: Sunday, March 24, 2019 2:11 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) <(b)(6) per OLC>
Subject: RE: Draft Letter

First page (b) (5)

From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 2:08 PM
To: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b)(6) per OLC; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: Draft Letter

Done.

From: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 2:05 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b)(6) per OLC; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: Draft Letter

Page 2, (b) (5)

From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 1:51 PM
To: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b)(6) per OLC; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: Draft Letter

Proposed final draft attached. Please review ASAP and respond with edits.

Brian C. Rabbitt
Chief of Staff
Office of the Attorney General
U.S. Department of Justice
T: (b) (6)
M: (b) (6)
Brian.Rabbitt@usdoj.gov

O'Callaghan, Edward C. (ODAG)

From: O'Callaghan, Edward C. (ODAG)
Sent: Sunday, March 24, 2019 3:19 PM
To: Weinsheimer, Bradley (ODAG)
Subject: FW: Draft Letter
Attachments: AG Memo 3-24 1515.docx; AG Memo 3-24 1300 (Compare).docx

Edward C. O'Callaghan
202-514-2105

From: Engel, Steven A. (OLC) (b)(6) per OLC
Sent: Sunday, March 24, 2019 3:18 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: Draft Letter

Attached is the current version and a compare to the prior version.

From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 2:18 PM
To: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b)(6) per OLC; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: Draft Letter

Ok. Everyone come to OAG now.

From: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 2:17 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b)(6) per OLC
O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: Draft Letter

Duplicative Material

Rosenstein, Rod (ODAG)

From: Rosenstein, Rod (ODAG)
Sent: Sunday, March 24, 2019 3:46 PM
To: Engel, Steven A. (OLC); Rabbitt, Brian (OAG); O'Callaghan, Edward C. (ODAG); Whitaker, Henry C. (OLC)
Subject: RE: Draft Letter
Attachments: AG Memo 3-24 1515.docx

Proposed edits attached.

From: Engel, Steven A. (OLC) (b)(6) per OLC
Sent: Sunday, March 24, 2019 3:18 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Whitaker, Henry C. (OLC) (b)(6) per OLC
Subject: RE: Draft Letter

Duplicative Material



Weinsheimer, Bradley (ODAG)

From: Weinsheimer, Bradley (ODAG)
Sent: Sunday, March 24, 2019 3:52 PM
To: O'Callaghan, Edward C. (ODAG)
Subject: RE: Draft Letter
Attachments: AG Memo 3-24 1515 (002).docx

(b) (5)

From: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>
Sent: Sunday, March 24, 2019 3:19 PM
To: Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>
Subject: FW: Draft Letter

Duplicative Material

