

**Rich Rossman (NAFUSA)**

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**From:** Rich Rossman (NAFUSA)  
**Sent:** Thursday, December 1, 2016 9:02 AM  
**To:** Yates, Sally (ODAG)  
**Subject:** NAFUSA DECEMBER 2016 Newsletter



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NAFUSA Update

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December 2016

Dear Sally,

NAFUSA Update is published monthly. [NAFUSA's website](#) can be accessed directly from this newsletter. New articles are posted to the website during the month. You may also [subscribe](#) to NAFUSA email updates, delivered to your inbox overnight, the day after any new items are posted. (Be sure to complete the two step process.) You can also follow NAFUSA on Twitter ([@NAFUSAorg](#)).

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## Sessions is Trump's Pick for AG

 Selden, Sessions, Smietanka

Senator Jeff Sessions of Alabama is the choice of President-elect Donald Trump to be the next attorney general of the United States. If confirmed, Sessions would be the third former United States Attorney in a row to serve as AG. From 1981 to 1993 he served as U.S. Attorney for the Southern District of Alabama. He has been a senator from Alabama since 1997, currently serving on the Senate Judiciary Committee.

Sen. Sessions is shown above with NAFUSA members Jack Selden and John Smietanka at the NAFUSA 2013 annual conference in Washington, DC.

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## Janet Reno Dies at 78

 Janet Reno

 Gray

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Janet Reno, the first woman to serve as attorney general of the United States, died on November 7, 2016, at her home in Miami-Dade County, Florida, from complications of Parkinson's disease.

Attorney General Loretta Lynch released the following statement:

*With the passing of Janet Reno, the Department of Justice has lost one of the most effective, decisive and well-respected leaders in its proud history. From her years in state law enforcement to her long and eventful tenure as Attorney General, Janet Reno always strove, as she put it, to do her 'level best.' She led the department in a time of turmoil and change, confronting issues ranging from international and domestic terrorism to fair competition in the emerging technology sector. In meeting these challenges, she was guided by one simple test: to do what the law and the facts required. She accepted the results of that test regardless of which way the political winds were blowing. She never shied from criticism or shirked responsibility, earning her the affection of her subordinates, the respect of her critics, and the esteem of the American people. And of course, as the first woman to serve as attorney general, she was an inspiration and a trailblazer for so many women working in law enforcement and government - including me. The United States is a stronger, safer and more just place because of Janet Reno's leadership, and she will be dearly missed.*

Earlier this year, NAFUSA became a Founding Donor of the Janet Reno Endowment at Georgetown University, having made a \$10,000 contribution.

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## Mary Jo White to Step Down at SEC

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 Mary Jo White

On Monday, November 13, 2016, NAFUSA member Mary Jo White announced she will step down as the head of the Securities and Exchange Commission two years before the end of her term. She will depart at the conclusion of President Obama's term in January. White served as the United States Attorney for the Southern District of New York 1993-2002. She was approved by the Senate through a unanimous consent motion after facing little opposition through the confirmation process. White, formerly a partner at Debevoise & Plimpton, was named in 2013 one of "The Most Influential Lawyers in America" by the National Law Journal.

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## Fiske Fellows Celebrate 15 Years

 Fiske Fellows 15 years

The University of Michigan *Law Quadrangle* reported in its Fall 2016 issue that NAFUSA member Robert Fiske (SDNY 1976-1980) celebrated in July the 15th anniversary of the program he developed at the law school to launch government service careers.

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*In July, Fiske Fellows gathered in Washington, D.C., to celebrate the 15th anniversary of the program that helped them get their starts, and the man who made it possible. In 2001, Bob Fiske, '55, HLLD '97, created the Robert B. Fiske Jr. Fellowship Program for Government Service to encourage recent Michigan Law graduates to pursue positions as government lawyers. The fellowship pays both college and law school debt for three years plus a stipend; it has supported 49 fellows to date. Fiske, who is senior counsel at Davis Polk & Wardwell LLP, has spent large portions of his career in public service and says the synergy between public service and private practice makes people who do both better at each. "I want graduates to reap the life-changing benefits of government service without having to worry about their debt." As evidenced by the tributes presented to Fiske at the celebration, he has more than accomplished that mission.*

The 2016 Fellows are pictured below with Bob Fiske (left to right) Caroline Flynn, '13, U.S. Department of Justice, Office of Legal Counsel; Ben Clark, '14, Consumer Financial Protection Bureau; John Broderick, '13, environment and natural resources division of the U.S. Department of Justice; and Megan DeMarco, '16, New York County District Attorney's Office.

 Fiske Fellows 2016

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## Charlton Defends Comey

NAFUSA member Paul Charlton (Arizona 2001-2007) penned an OpEd on November 4, 2016 in *The Washington Post*, in defense of FBI Director James Comey: [James Comey has always believed in doing what's right and ignoring politics](#)

 Paul Charlton

Charlton writes:

*Now Comey, the director of the FBI, is being accused of interfering in the presidential election for notifying Congress last week that federal agents had found new emails that could be pertinent to the bureau's investigation into Hillary Clinton's private server. What Comey is doing, though, is what he's always done: standing up for what he believes is right, no matter the political consequences.*

*While many may disagree with Comey's decisions today, we are better served if we reserve judgment. In the near future, the nation will look back and realize the wisdom of trusting a public servant with moral character.*

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## Vaira Laments the Decline of Skilled Trial Lawyers

NAFUSA member Peter Vaira discussed the "vanishing trial lawyer" in an article printed in *The Legal Intelligencer* on November 14, 2016, [The Important Role of a Trial Lawyer](#). Vaira points out that "Civil trials have diminished drastically, and, because of that, the number of skilled trial lawyers has declined." He suggests training young lawyers to learn trial skills and argues this kind of training is the responsibility of the entire bench and bar. He closes with: "fellow bar members, do not let this great feature of the law practice wither away for the sake of economy in discovery or reducing training costs."

Vaira (ED Pennsylvania 1978-1983) is a member of

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## Ernie Williams Dies

Judge Ernie Williams, who served as the United States Attorney for the Middle District of Tennessee, died this week. Judge Williams is a veteran who upon graduating high school entered the United States Marine Corps and served

Judge Ernie Williams

Judge Ernie Williams

there from 1965 until 1969. His service included a tour in Vietnam as well as being selected as a member of the Marine Corps Color Guard in Washington, D.C. As such, he served at the White House and was ultimately honorably discharged as a sergeant.

Judge Williams returned from the Marine Corps and graduated from the University of Tennessee in December of 1974. He obtained his doctorate of jurisprudence from the Nashville School of Law in May of 1980. He ultimately moved to Franklin Tennessee and opened his own law practice where he quickly gained a reputation for being a skilled trial lawyer. President George H.W. Bush selected him to be the United States Attorney for the Middle District of Tennessee in 1991. In that role, he supervised the United States Attorney's office in Nashville which was comprised of 75 employees and 19 assistant United States attorneys.

Judge Williams was considered to be a hands-on US attorney, actively involved in the trying of cases. These cases involved all types of federal crimes including large drug cases, sexual offenses, kidnappings and murders.

Upon leaving the United States Attorney's office, he returned to Franklin, Tennessee where he resumed his private practice. He and his wife Nancy were very active in the community and assumed many leadership roles. His wife served on the County Commission until her untimely death in 2002. At that time, the County Commission

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appointed Judge Williams to fill her vacancy. He was elected to two successive terms following his appointment to represent the 9th Commissioner, he chaired numerous committees, including the budget committee. He is past chairman and board member of My Friends House, an organization that houses and assists at-risk youth throughout the community. He has also served on numerous professional legal associations. He was a Certified Supreme Court Rule 31 Civil and Family Law Mediator.

Prior to establishing Williams, Beal & Nations in 2013 in Franklin, Tennessee, Judge Williams was appointed as presiding judge of the Williamson County General Sessions Court, Division II. The General Sessions Court hears all types of small claims civil suits as well as criminal matters. As a General Sessions Judge, Judge Williams had the authority to dispose of misdemeanor cases and determine whether probable cause existed for felony charges to be brought before the Circuit Court.

Judge Williams lived in Williamson County and been a practicing attorney for 34 years. There are few attorneys in the Middle Tennessee area that have not had cases against him, mediated by him or appeared in front of him. He is survived by three children and five grandchildren.

As is our custom, NAFUSA will request that an American flag be flown over Main Justice and presented to the family as a token of the regard with which Judge Williams was held by his colleagues.

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Sent by [rossmanr@nafusa.org](mailto:rossmanr@nafusa.org) in collaboration with



**Yates, Sally (ODAG)**

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**Subject:** Sensitive Matter Meeting

**Location:** DOJ JCC

**Start:** Tuesday, December 13, 2016 3:15 PM

**End:** Tuesday, December 13, 2016 4:00 PM

**Show Time As:** Tentative

**Recurrence:** (none)

**Organizer:** Yates, Sally (ODAG)

**Required Attendees:** Amuluru, Uma (OAG); Austin, William (ODAG); Axelrod, Matthew (ODAG); Childs, Heather G. (ODAG); Comey, James B. (DO) (FBI); (b)(6), (b)(7)(C) per FBI (DO) (FBI); Lan, Iris (ODAG); McCabe, Andrew G. (DO) (FBI); Pokorny, Carolyn (OAG); Rybicki, James E. (DO) (FBI)

**Optional Attendees:** (b)(6), (b)(7)(C) per FBI (DO) (FBI)

FBI Monthly Meeting

NEW LOCATION-- RFK Room 4133 (Margolis Conference Room)

Attendees

ODAG: Matthew Axelrod, Iris Lan

OAG: Carolyn Pokorny, Uma Amuhuru

FBI: Director James Comey, Deputy Director McCabe, CoS Rybicki

ODAG Point of Contact: Josh Mogil, 202-514-2101, [Joshua.Mogil@usdoj.gov](mailto:Joshua.Mogil@usdoj.gov)<<mailto:Joshua.Mogil@usdoj.gov>>

FBI POC: (b)(6), (b)(7)(C), (b)(7)(E) per FBI

## Axelrod, Matthew (ODAG)

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**From:** Axelrod, Matthew (ODAG)  
**Sent:** Friday, December 16, 2016 8:59 AM  
**To:** Yates, Sally (ODAG)  
**Subject:** FW: POTUS on Russia

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**From:** Iftimie, Alex (OAG)  
**Sent:** Friday, December 16, 2016 8:27 AM  
**To:** Axelrod, Matthew (ODAG) <maaxelrod@jmd.usdoj.gov>  
**Cc:** Werner, Sharon (OAG) <SWerner@jmd.usdoj.gov>; Pokorny, Carolyn (OAG) <cpokorny@jmd.usdoj.gov>; Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov>  
**Subject:** POTUS on Russia

Matt,

NPR aired a portion of its exit interview with POTUS this morning, which focused heavily on Russia. Below is some of the coverage – I haven't seen a transcript yet, but the full audio is at the NPR link below.

Alex

[http://www.npr.org/2016/12/15/505775550/obama-on-russian-hacking-we-need-to-take-action-and-we-will?utm\\_campaign=storyshare&utm\\_source=twitter.com&utm\\_medium=social](http://www.npr.org/2016/12/15/505775550/obama-on-russian-hacking-we-need-to-take-action-and-we-will?utm_campaign=storyshare&utm_source=twitter.com&utm_medium=social)

### Obama On Russian Hacking: 'We Need To Take Action. And We Will'

#### *NPR via YouTube*

President Obama says the United States will respond to Russian cyberattacks that the intelligence community has concluded were part of an effort to influence the 2016 presidential election.

In an interview with NPR's Steve Inskeep that will air Friday on *Morning Edition*, Obama said, "I think there is no doubt that when any foreign government tries to impact the integrity of our elections ... we need to take action. And we will — at a time and place of our own choosing. Some of it may be explicit and publicized; some of it may not be."

#### **Obama tells NPR "we will" respond to Russian hacking**

U.S. intelligence officials have concluded that hackers working for Russia hacked into the Democratic National Committee's computer network, as well as the private email of John Podesta, a top adviser to Democratic presidential nominee Hillary Clinton.

With the question of Russia's ultimate motivation for the hack becoming increasingly divisive, Obama was careful to not endorse a CIA assessment, reported by NPR and other news outlets, that asserts that Russia's goal was to elect Trump.



gov was to elect trump.

"There are still a whole range of assessments taking place among the agencies," Obama told NPR, referring to an order he has given the U.S. intelligence community to conduct a full review of the cyberattacks before Inauguration Day. "And so when I receive a final report, you know, we'll be able to, I think, give us a comprehensive and best guess as to those motivations. But that does not in any way, I think, detract from the basic point that everyone during the election perceived accurately — that in fact what the Russian hack had done was create more problems for the Clinton campaign than it had for the Trump campaign."

"There's no doubt that it contributed to an atmosphere in which the only focus for weeks at a time, months at a time were Hillary's emails, the Clinton Foundation, political gossip surrounding the DNC," Obama said.

In fact, email had been a major focus since before Clinton formally entered the presidential race, owing to revelations first reported by the *New York Times* that she used a private email server during her tenure leading the State Department. Updates about the FBI's investigation of the server dripped out at intervals throughout the entire campaign.

The State Department also released Clinton emails at semi-regular intervals throughout the campaign, as did the conservative group Judicial Watch, which obtained them through a Freedom of Information Act lawsuit.

Obama didn't pin the blame for Clinton's loss on the leaked information, saying, "Elections can always turn out differently. You never know which factors are going to make a difference. But I have no doubt that it had some impact, just based on the coverage."

Obama said his goal is for a definitive White House report on the matter to be issued before President-elect Donald Trump takes office on Jan. 20. He was also careful to say that while the Russian hacks benefited Trump, he is not suggesting Trump's campaign helped coordinate the attacks or played any role in them, other than to exploit them for political advantage. "They understood what everybody else understood, which was that this was not good for Hillary Clinton's campaign," the president said.

Obama acknowledged that every "big power" spies and collects intelligence on each other, but, he said, "There's a difference between that and the kind of malicious cyberattacks that steal trade secrets or engage in industrial espionage, something that we've seen the Chinese do. And there is a difference between that and activating intelligence in a way that's designed to influence elections."

Obama discussed cybersecurity with Vladimir Putin during a 90-minute meeting on the sidelines of the G-20 summit held in China in early September. The president characterized the meeting at the time as "candid, blunt, businesslike."

While Obama is threatening to retaliate against Russia, he has only about five weeks left in the Oval Office. Trump has dismissed — in fact, mocked — intelligence assessments tying the DNC and Podesta hacks to Russia, and he campaigned on improving the U.S. relationship with the country.

In his interview with NPR, Obama appeared mystified by that stance.

"The irony of all this, of course, is that for most of my presidency, there's been a pretty sizable wing of the Republican Party that has consistently criticized me for not being tough enough on Russia," he said. "Some of those folks during the campaign endorsed Donald Trump, despite the fact that a central tenet of his foreign policy was we shouldn't be so tough on Russia. And that kind of inconsistency I think makes it appear, at least, that their particular position on Russia on any given day depends on what's politically expedient."

The president cited [a recent Economist-YouGov poll that found](#) Republican voters view Putin much more favorably now than they did before the 2016 presidential election.

"This is somebody, the former head of the KGB, who is responsible for crushing democracy in Russia, muzzling the press, throwing political dissidents in jail, countering American efforts to expand freedom at every turn; is currently making decisions that's leading to a slaughter in Syria. And a big chunk of the Republican Party, which prided itself during the Reagan era and for decades that followed as being the bulwark against Russian influence, now suddenly is embracing him."

NPR reached out to the Trump transition team for comment but has not received a response.



**Axelrod, Matthew (ODAG)**

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**From:** Axelrod, Matthew (ODAG)  
**Sent:** Friday, December 16, 2016 4:09 PM  
**To:** Yates, Sally (ODAG)  
**Subject:** FW: FYI WaPo on FBI Russia Assessment

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**From:** Iverson, Dena W. (OPA)  
**Sent:** Friday, December 16, 2016 3:27 PM  
**To:** Axelrod, Matthew (ODAG) <maaxelrod@jmd.usdoj.gov>  
**Subject:** FYI WaPo on FBI Russia Assessment

[https://www.washingtonpost.com/world/national-security/fbi-backs-cia-view-that-russia-intervened-to-help-trump-win-election/2016/12/16/05b42c0e-c3bf-11e6-9a51-cd56ea1c2bb7\\_story.html?utm\\_term=.5d20998378ee&wpisrc=al alert-COMBO-politics%252Bnation](https://www.washingtonpost.com/world/national-security/fbi-backs-cia-view-that-russia-intervened-to-help-trump-win-election/2016/12/16/05b42c0e-c3bf-11e6-9a51-cd56ea1c2bb7_story.html?utm_term=.5d20998378ee&wpisrc=al alert-COMBO-politics%252Bnation)

**Rich Rossman (NAFUSA)**

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**From:** Rich Rossman (NAFUSA)  
**Sent:** Monday, January 2, 2017 9:01 AM  
**To:** Yates, Sally (ODAG)  
**Subject:** NAFUSA JANUARY 2017 Newsletter



# NAFUSA Update

January 2017

Dear Sally,

*NAFUSA Update* is published monthly. [NAFUSA's website](#) can be accessed directly from this newsletter. New articles are posted to the website during the month. You may also [subscribe](#) to NAFUSA email updates, delivered to your inbox overnight, the day after any new items are posted. (Be sure to complete the two step process.) You can also follow NAFUSA on Twitter ([@NAFUSAorg](#)).

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## 108 Former U.S. Attorneys Urge Senate to Confirm Sessions

Jeff Sessions

Sen. Jeff Sessions talks to reporters at Trump Towers \_Jewel Samad\_AFP\_Getty Images\_

In a letter delivered on December 16, 2016, to Senators Grassley, Leahy and Feinstein, 108 former United States Attorneys, most of them members of NAFUSA, urged the Senate Committee on the Judiciary to support the confirmation of Senator

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## NAFUSA Annual Conference

The 2017 NAFUSA conference will be held in Washington, DC at The Mayflower Hotel, October 18-20. Note the format has been changed to Wednesday-Friday, closing with a banquet on Friday night. PSC has signed on to be the first 2017 sponsor. Please consider joining the list of sponsors by contacting Rich Rossman or Lisa Rafferty.

## 2017 Dues Notice

2017 dues notices will be sent via email mid-January and will be due February 28, 2017. Regular dues remain at \$150 annually, and lifetime

JETT Sessions as Attorney General of the United States. [Click here to view letter and list of signatories: usa-letter-sessions.](#)

*As former U.S. Attorneys, we are in a unique position to evaluate the qualifications of Senator Sessions to serve as our nation's Attorney General. United States Attorneys are the top-ranking federal law-enforcement officials of their jurisdictions, tasked with setting enforcement priorities, building trust with the communities they serve, and protecting the public while respecting federalism, the separation of powers, and the individual rights enshrined in the Constitution. It is not an easy job, but it is one in which Senator Sessions excelled.*

*Senator Sessions' record reflects his priorities clearly, and none of his work as U.S. Attorney was more impactful than his sustained effort to eliminate segregation in rural Alabama and break the back of the Alabama Klan. In addition to bringing and supporting civil rights cases to fight against voter suppression and school segregation, Senator Sessions supported the investigation into the brutal murder of an African American teenager, Michael Donald. His efforts, in coordination with state authorities, ensured that the perpetrator - the son of the Alabama Klan's leader - received a capital sentence. Sessions' office also prosecuted an accomplice in that case, who pled guilty and received a life sentence, the maximum penalty available in federal court at the time. These successful prosecutions helped the victim's mother win a \$7 million lawsuit against the Klan, effectively crippling it as a political organization within Alabama.*

*Senator Sessions served for a remarkable twelve years as U.S. Attorney. His lengthy tenure alone is impressive given the burdens of the job, which we well know. Senator Sessions' conspicuous service to the law and all citizens has continued as a United States Senator. In his work as a leader on the Senate Judiciary Committee, he has espoused a consistent understanding of the Constitution, a commitment to the rule of law, and an unwavering respect for the mission of the Department of Justice.*


*During his 41 years of public service, Senator Sessions has proved to be a leader of strong principles and firm beliefs. His support for the 25-year extension of the Civil Rights Act in 2006 is evidence of this. He also has proved to be a leader who appreciates positions that differ from his own and who learns from the scrutiny that comes with public life. His openness to different thinking and other worldviews is evidenced by the recent statements in support of his nomination from colleagues across the political spectrum and his support for Eric Holder's nomination as Attorney General in 2009.*

*As former U.S. Attorneys, we worked with and for many Attorneys General, each different, each with his or her own unique strengths. We have no doubt that Senator Sessions can do the job well, bringing to this critically important office his own unique and extraordinary strengths of courage, humility, experience, and an inviolable promise to treat all people equally under the law.*

dues at a one-time payment \$1500. Payment may be made by check or by credit card, once the process begins. Members who have reached their 70th birthday and are fully retired from the active practice of law, may take senior status for \$50 per year.



## AAG Caldwell Apologizes to U.S. Attorney's Offices for Comments at the Federalist Society

 Leslie Caldwell

Leslie Caldwell, Assistant Attorney General for the Criminal Division, expressed some surprising views on December 8, 2016, at a Federalist Society event on criminal overreach at the National Press Club in D.C.

As reported by Jody Godoy of Law 360,

*She observed that the "quality of the lawyers" and resources varies greatly between U.S. attorney's offices.*

*"I acknowledge there are cases that get filed that shouldn't be filed. There are districts where the oversight is not what it should be. The experience level is not what it should be," Caldwell said.*

*She said DOJ Criminal Division attorneys get "far more robust" training than federal prosecutors out in the states do. And when asked about how the DOJ enforces a provision in the U.S. attorney's manual advising prosecutors to consider noncriminal options, Caldwell replied that the manual is "much more regularly used in Washington, in the Criminal Division, than it is in the field."*

*She encouraged attorneys to raise concerns with DOJ headquarters.*

known as Main Justice, and gave a couple of anecdotes illustrating how higher-ups killed ill-conceived cases.

In one instance, Caldwell said, Main Justice put the brakes on an attempt by an unnamed U.S. attorney to indict two partners at a major Chicago law firm who were representing a corporate client. The lawyers had attempted to get more time to respond to a subpoena and were nearly hit with an obstruction-of-justice charge.

"That prosecutor had never had that conversation before with a defense lawyer. That prosecutor didn't know that that's how things work ... supervisory ranks did not recognize that that was not obstruction of justice," Caldwell said, adding "thank goodness" a review by Main Justice was required.

Another time DOJ higher-ups stepped in, according to Caldwell, was when a small district attempted to indict all the adult residents of a town on racketeering charges since they were members of a religious sect that got its income through government program fraud.

In another example Caldwell gave, the DOJ in Washington played a mitigating role when a U.S. attorney tried to get high penalties for a bank facing treasury sanctions violations.

The cases illustrate that escalating concerns with a case can sometimes be effective, Caldwell said.

"It's not always going to work when you appeal beyond the line attorney, but we recommend that if you feel strongly about a case, you at least ask to be heard," Caldwell said.

NAFUSA member John Richter, another member of The Federalist Society panel remarked, according to Godoy, that even at DOJ headquarters, other sections lack criminal experience. Richter, a partner at King & Spalding, had represented Vascular Solutions, Inc., a medical device company that was acquitted of criminal off-label promotion earlier this year in a case prosecuted by a U.S. Attorney's office and a unit from Main Justice.

 John Richter

[Click here to view video of the Federal Society panel discussion](#)

John Richter

But over the weekend, Caldwell had second thoughts about her comments and penned a letter to all U.S. Attorney's offices apologizing profusely for her comments:


*I did not have prepared remarks for the event, and I certainly should have. Instead, I overreacted to the criticisms-which I strongly believe were not an accurate reflection of the Department's work-by defending the Department in a way that inappropriately suggested that the care taken by U.S. Attorney's Offices and others in making prosecutorial decisions was less than that taken by attorneys in the Criminal Division. And by making unscripted references to isolated issues in my recent experience, I realize that, rather than defending the reputation of the entire Department, I appeared to be criticizing U.S. Attorney's Offices, Assistant U.S. Attorneys and other components. I deeply regret my remarks and the genuine hurt that they have caused.*

*As a federal prosecutor for 19 years, including 10 years as an Assistant U.S. Attorney in two different districts, I know better.*

[Click here to review The Wall Street Journal article and letter of apology](#)

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## **Bharara Expects To Remain As U.S. Attorney Under Trump**

 Prett Bharara

*Preet Bharara/Sam Hodgson for The New York Times*

The *New York Times* reported on December 1, 2016, that Preet Bharara, the United States Attorney for the Southern District of New York, said that he intended to remain in office under President-elect Trump's administration.

Bharara was appointed in 2009 by President Obama and has served for seven years. He made the announcement after meeting with Trump at the Trump Tower. Bharara said he was asked to stay on by the president-elect and by Senator Jeff Sessions, who is the choice for attorney general.

See [Bharara Says He Will Stay U.S. Attorney Under Trump](#).

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## **DOJ Collects More Than \$15.3 Billion in FY 2016**


Attorney General Loretta E. Lynch announced on December 14, 2016, that the [Justice Department Collects More Than \\$15.3 Billion in Civil and Criminal Cases](#)



in Fiscal Year 2016. This total represents more than five times the approximately \$3 billion appropriated budget for the 94 U.S. Attorneys' offices and the main litigating divisions of DOJ combined in that same period. The largest settlements derived from cases related to the financial crisis. The total includes all monies collected as a result of Justice Department-led enforcement actions and negotiated civil settlements. Of the total, more than \$12 billion was paid directly to DOJ and the remainder to other federal agencies, states and other designated recipients.

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## Henry Oncken Dies

 Henry Oncken

Henry Oncken, who served as the United States Attorney for the Southern District of Texas, 1985-1990, passed away on December 21, 2016. He attended the University of Houston and received his JD from the Bates College of Law. His career began at Humble Oil (Exxon) and then with the District Attorney's Office. He served as a Harris County District Court Judge before his appointment in 1985 as U.S. Attorney for the Southern District of Texas. In retirement, Henry worked as a visiting judge in the Harris County Criminal Courts. He loved the outdoors and looked forward to spending each hunting season with his friends and family.

He is survived by his wife Jackie, daughter Leah, son-in-law Jon, grandchildren Nathan and Ava and brothers Bill and Gary.

A Celebration of Life was held on December 28, 2016 in Houston, Texas. After the service, a reception will be held at the church followed by the gravesite service. In lieu of flowers, the family has asked that donations be made to The Gladney Center, 6300 John Ryan Drive, Ft. Worth, Texas 76132.

As is our custom, NAFUSA has arranged for an American flag to be flown over Main Justice in Henry's honor and it will be presented to his family as a token of the high regard with which he was held by his colleagues.

---

**National Association of Former United States Attorneys (NAFUSA)**  
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**Yates, Sally (ODAG)**

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**From:** Yates, Sally (ODAG)  
**Sent:** Friday, January 13, 2017 8:14 AM  
**To:** Rosenstein, Rod (USAMD)  
**Subject:** Re: CNN Report

Of course! My fingers are crossed!

> On Jan 13, 2017, at 8:00 AM, Rosenstein, Rod (USAMD) <Rod.Rosenstein@usdoj.gov> wrote:

>

> Thank you. I am not making any plans based on this report. But if I do get the call, I hope to rely on you for advice.

>

>> On Jan 13, 2017, at 7:49 AM, Yates, Sally (ODAG) <Sally.Yates2@usdoj.gov> wrote:

>>

>> Rod,

>> This is fantastic news! You will be a terrific DAG. We are all fortunate that someone who both knows and loves the Department was selected. I look forward to doing everything I can to assist your transition. Congratulations!!! (Official or not) >> Best, >> Sally

>>

>> On Jan 13, 2017, at 12:58 AM, Rosenstein, Rod (USAMD) <Rod.Rosenstein@usdoj.gov<mailto:Rod.Rosenstein@usdoj.gov>> wrote:

>>

>> I want to make sure that you and the AG are aware of this report. Note that it is anonymous. I will let you know if there is any firm news.

>>

>> <http://www.cnn.com/2017/01/12/politics/donald-trump-deputy-attorney-general/index.html>

**Axelrod, Matthew (ODAG)**

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**From:** Axelrod, Matthew (ODAG)  
**Sent:** Saturday, January 14, 2017 9:12 PM  
**To:** Yates, Sally (ODAG)  
**Subject:** Fwd: Letter for AG Lynch  
**Attachments:** Letter to AG Lynch .pdf; ATT00001.htm

Begin forwarded message:

**From:** "Werner, Sharon (OAG)" <[SWerner@jmd.usdoj.gov](mailto:SWerner@jmd.usdoj.gov)>  
**Date:** January 14, 2017 at 8:14:18 PM EST  
**To:** "Axelrod, Matthew (ODAG)" <[maaxelrod@jmd.usdoj.gov](mailto:maaxelrod@jmd.usdoj.gov)>, "Kadzik, Peter J (OLA)" <[pkadzik@jmd.usdoj.gov](mailto:pkadzik@jmd.usdoj.gov)>, "Pokorny, Carolyn (OAG)" <[cpokorny@jmd.usdoj.gov](mailto:cpokorny@jmd.usdoj.gov)>, "Franklin, Shirlethia (OAG)" <[shfranklin@jmd.usdoj.gov](mailto:shfranklin@jmd.usdoj.gov)>, "Newman, Melanie (OPA)" <[mnewman@jmd.usdoj.gov](mailto:mnewman@jmd.usdoj.gov)>, "Lewis, Kevin S. (OPA)" <[kslewis@jmd.usdoj.gov](mailto:kslewis@jmd.usdoj.gov)>  
**Subject:** Fwd: Letter for AG Lynch

FYI. Mel/Kev - not sure if you expect this topic (even if not this specific letter) to come up tomorrow.

Begin forwarded message:

**From:** Winnie Stachelberg <[wstachelberg@americanprogress.org](mailto:wstachelberg@americanprogress.org)>  
**Date:** January 14, 2017 at 11:16:11 AM EST  
**To:** "Sharon.Werner@usdoj.gov" <[Sharon.Werner@usdoj.gov](mailto:Sharon.Werner@usdoj.gov)>  
**Subject:** Letter for AG Lynch

Sharon – I am sorry to intrude on your weekend but I wanted to send the attached letter to you from Neera Tanden at the Center for American Progress.

Like you, we are very disturbed by the Intelligence Community assessment that Russian President Vladimir Putin ordered an influence operation targeting the presidential election. In our letter, we ask that AG Lynch exercises her statutory authority and appoint an independent Special Counsel to investigate Russian government interference in the 2016 presidential election and allegations that the Trump campaign colluded with Russia in their activities.

Please do not hesitate to call me at (b) (6) to discuss. We are happy to get on the phone at any point today or this weekend.

Winnie

Winnie Stachelberg  
FVP, External Affairs  
(b) (6)

(b) (6) [REDACTED]



# Center for American Progress



January 14, 2017

Honorable Loretta E. Lynch  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Dear Attorney General Lynch:

The Center for American Progress requests that you exercise your statutory authority and appoint an independent Special Counsel to investigate Russian government interference in the 2016 presidential election and allegations that the Trump campaign colluded with Russia in their activities.

We are deeply disturbed by the Intelligence Community assessment that Russian President Vladimir Putin ordered an influence operation targeting the presidential election and that he and the Russian government acted to harm Secretary Clinton's campaign and help President-elect Trump win. We are also gravely concerned about allegations that Americans associated with the election campaign of President-elect Trump may have colluded with the Russian government in these operations.

- I. The Intelligence Community has concluded that the Russian government interfered with the 2016 presidential election and serious allegations have been made that the Trump campaign colluded with Russia in its operation

The Intelligence Community has concluded that Russian President Putin "ordered an influence campaign in 2016 aimed at the US presidential election. . . . to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency."<sup>1</sup> Additionally, the Intelligence Community has assessed that "Putin and the Russian Government developed a clear preference for President- elect Trump."<sup>2</sup>

Activities in this Russian influence operation included, but were not limited to, the unlawful theft of private documents and electronic communications of American citizens and the dissemination of that material to the public.

We are also gravely concerned about allegations that Americans associated with the election campaign of President-elect Trump may have colluded with the Russian

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<sup>1</sup> Background to "Assessing Russian Activities and Intentions in Recent U.S. Elections": The Analytic Process and Cyber Incident Attribution," Office of the Director of National Intelligence, January 6, 2017, at ii.

<sup>2</sup> Ibid.

government in these operations.<sup>3</sup> Specifically, it has been reported that intelligence officials have briefed President Obama, President-elect Trump, and Members of Congress that there are serious allegations of communication between Trump campaign officials and agents of the Russian government to coordinate activities around Russia's influence operation.<sup>4</sup> Furthermore, media reports indicate that the Federal Bureau of Investigation (FBI) is investigating two Russian banks for potential illegal financial transactions related to the presidential campaign.<sup>5</sup>

## II. The Department should appoint a Special Counsel to investigate this matter

We believe that the imminent inauguration of President-elect Trump and the likely confirmation of his campaign supporter, Senator Sessions, as Attorney General, present both a conflict of interest and constitute extraordinary circumstances that require the appointment of an outside Special Counsel to assume responsibility for this investigation. It is most assuredly in the public interest of all Americans to appoint a Special Counsel to handle this incredibly sensitive and important case.

Department of Justice regulations set forth in 28 CFR 600.1 provide that the attorney general "will appoint a Special Counsel when [you] determine that criminal investigation of a person or matter is warranted and,

- (a) That investigation or prosecution of that person or matter by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances; and
- (b) That under the circumstances, it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter."

### A. Conflicts of Interest

In seven days, President-elect Trump will be sworn in as the 45<sup>th</sup> President of the United States. It is likely that on that day or very soon thereafter, Senator Jeff Sessions will be sworn in as Attorney General. Senator Sessions was the first senator to endorse then-candidate Trump and was an official surrogate for the Trump campaign through the primary and general election.<sup>6</sup> President-elect Trump then nominated Senator Sessions to become attorney general.<sup>7</sup>

The investigation of the Russian operation and any possible collusion directly involves investigation of President-elect Trump's campaign. It is possible that President-elect could be required to answer questions during the investigation. This poses a clear

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<sup>3</sup> Evan Perez, Jim Sciutto, Jake Tapper, and Carl Bernstein, "Intel chiefs presented Trump with claims of Russian efforts to compromise him," CNNPolitics.com, January 12, 2017.

<sup>4</sup> Ibid.

<sup>5</sup> Paul Wood, "Trump 'compromising' claims: How and why did we get here?," BBC News, January 12, 2017.

<sup>6</sup> Niels Lesniewski, "Sessions First Senator to Endorse Trump," Roll Call, February 28, 2016.

<sup>7</sup> Julie Hirschfeld Davis, "Trump Turns to His Right Flank to Fill National Security Posts," The New York Times, November 18, 2017.

conflict of interest for the Department in having responsibility for the investigation. Moreover, the relationship between the campaign and Senator Sessions also poses a clear conflict of interest for the incoming attorney general.

Additionally, just yesterday, the Department of Justice Inspector General announced that he was conducting an investigation into FBI Director James Comey's public statements during the election campaign regarding the investigation into Hillary Clinton and her aides stemming from her use of a private email server while Secretary of State.<sup>8</sup> The Inspector General will examine allegations that Director Comey violated long-standing Justice Department rules and procedures limiting public statements on investigations, especially close to an election.<sup>9</sup>

Many Americans believe that Director Comey's public statements had an impact on the outcome of the election and are concerned about the effect on our democracy.<sup>10</sup> President-elect Trump himself during the campaign praised the letter sent by Director Comey to Congress in October and relied upon in it during the latter stages of his campaign.<sup>11</sup> Given these concerns and that the Director's conduct during the election is under investigation, we believe that the FBI has a conflict of interest in conducting the investigation into the Russian operation and the Trump campaign which requires an outside Special Counsel to be responsible for the investigation.

#### B. Extraordinary Circumstances

The extensive operation by the Russian government to interfere in our election is unprecedented and extraordinary. There are credible press reports, which if true, are also extraordinary. The press reports that the intelligence community has determined that there are allegations that the Russian government has compromising information about President-elect Trump and that the Russian government colluded with the Trump campaign in stealing and disclosing emails from the Democratic National Committee and Hillary Clinton's campaign officials.<sup>12</sup> Those allegations have been determined to be of sufficient seriousness that they warranted the intelligence community officially briefing President Obama, President-elect Trump and Members Congress on the allegations.<sup>13</sup>

President-elect Trump's reaction to the work of the intelligence community in countering Russian disinformation operations aimed at our democracy and their conclusion that Russian did in fact conduct a wide-ranging operation intended to interfere in and discredit our democratic elections makes appointment of a Special Counsel essential. President-elect Trump did not condemn Russia's actions, he did not

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<sup>8</sup> Matt Zapotosky and Sari Horwitz, "Justice Department inspector general to investigate pre-election actions by department and FBI," *The Washington Post*, January 12, 2017.

<sup>9</sup> Ibid.

<sup>10</sup> Sean McElwee, Matt McDermott, and Will Jordan, "Four pieces of evidence showing FBI Director James Comey cost Clinton the election," *Vox.com*, January 11, 2017.

<sup>11</sup> Beth Reinhard, "Trump campaign energized by fresh Clinton email news," *The Wall Street Journal*, October 29, 2017.

<sup>12</sup> Perez, et al.

<sup>13</sup> Ibid.

endorse a full investigation or promise consequences for Russia or any American who may have been involved.<sup>14</sup>

To the contrary, he repeatedly denied Russian involvement and tried to deflect even any criticism of Russia.<sup>15</sup> During the campaign, he called for the Russians to steal and release more of Hillary Clinton's emails.<sup>16</sup> Even after public statements from U.S. government officials and private briefings from the intelligence community, the President-elect did not condemn the Russian activities, but instead attacked the integrity of the Intelligence Community.<sup>17</sup>

Even after receiving a full briefing on the classified evidence and conclusions about the Russian operation, President-elect Trump belittled the significance of the attack by the Russian government and deflected inquiries about the operation.<sup>18</sup> President-elect Trump has frequently talked about the content of the emails stolen by the Russians, blamed the Democratic National Committee and other victims for being hacked by the Russians, and attacked both the Intelligence Community and the press reporting on the subject.<sup>19</sup>

President-elect' Trump's reaction to the conclusion of the Intelligence Community about this attack by a foreign power on the integrity of our democracy creates extraordinary circumstances necessitating appointment of an outside Special Counsel.

### C. In the Public Interest

President-elect Trump's reaction to the findings of the intelligence community threatens to precipitate a crisis between the American people and their institutions of government. Supporters of the President-elect are unconcerned about Russia's actions and believe accusations against Russia are an attempt to undermine Mr. Trump's victory.<sup>20</sup> Supporters of Hillary Clinton are deeply concerned that the outcome of the election was influenced by the intervention of the FBI Director, the criminal Russian operation, and the possible collusion by the Trump campaign.<sup>21</sup>

An investigation by an outside independent and impartial Special Counsel is essential to reach a conclusion that the American people can have confidence in. It should be welcomed by the incoming administration as a way to address the concerns of the

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<sup>14</sup> Steve Benen, "Donald Trump sidesteps key questions on Russia scandal," MSNBC.com, January 11, 2017

<sup>15</sup> Chuck Todd, Mark Murray, Carrie Dann, "Trump has been strikingly consistent in denying Russian hacking role," NBC News, January 6, 2017.

<sup>16</sup> Michael Crowley and Tyler Pager, "Trump urges Russia to hack Clinton's email," *Politico*, July 27, 2017.

<sup>17</sup> "Trump condemns CIA Russia hacking report," BBC News, December 12, 2016.

<sup>18</sup> Nicole Gaouette and Jim Acosta, "Trump downplays Russian meddling in election despite intel report," CNNPolitics.com, January 6, 2017.

<sup>19</sup> Press Conference of President-elect Donald Trump, January 11, 2017.

<sup>20</sup> Campbell Robertson and Mitch Smith, "'What's the big deal?' ask Trump voters on Russia hacking report," *The New York Times*, January 7, 2017.

<sup>21</sup> Eric Bradner, "Poll: 55% of Americans bothered by Russian election hacking," CNNPolitics.com, December 18, 2016.



American people in a way that an investigation by the administration of its own campaign will not be able to.

### III. Conclusion

We request that you exercise your authority under section 600.1 of the Department of Justice's regulations to appoint a Special Counsel to undertake an investigation of the Russian government influence operation targeting the 2016 presidential election and whether Trump campaign officials colluded with the Russians in this operation.

Sincerely,

A handwritten signature in black ink, appearing to read "Neera Tanden".

Neera Tanden  
President & CEO  
Center for American Progress

**Axelrod, Matthew (ODAG)**

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**From:** Axelrod, Matthew (ODAG)  
**Sent:** Thursday, January 19, 2017 10:20 PM  
**To:** Yates, Sally (ODAG)  
**Subject:** Fwd: NYTimes: Intercepted Russian Communications Part of Inquiry Into Trump Associates

Begin forwarded message:

**From:** "McCord, Mary (NSD)" <[mmccord@jmd.usdoj.gov](mailto:mmccord@jmd.usdoj.gov)>  
**Date:** January 19, 2017 at 9:32:48 PM EST  
**To:** "Axelrod, Matthew (ODAG)" <[maaxelrod@jmd.usdoj.gov](mailto:maaxelrod@jmd.usdoj.gov)>, "Toscas, George (NSD)"  
(b) (6)  
**Subject:** NYTimes: Intercepted Russian Communications Part of Inquiry Into Trump Associates

<http://www.nytimes.com/2017/01/19/us/politics/trump-russia-associates-investigation.html?smprod=nytcore-iphone&smid=nytcore-iphone-share>

It is not clear whether the communications had anything to do with Donald J. Trump or his campaign.

**Yates, Sally (ODAG)**

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**From:** Yates, Sally (ODAG)  
**Sent:** Friday, January 20, 2017 12:25 PM  
**To:** (b)(6): Yates personal email  
**Subject:** FW: Pic from Friday  
**Attachments:** 32267847826\_1d8bac1eea\_o.jpg

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**From:** Mogil, Joshua (ODAG)  
**Sent:** Tuesday, January 17, 2017 2:02 PM  
**To:** Yates, Sally (ODAG) <sayates@jmd.usdoj.gov>  
**Subject:** Pic from Friday

Officials from the President-elect Donald Trump incoming administration and President Barack Obama's Cabinet and senior staff hold a transition meeting in the Eisenhower Executive Office Building of the White House, Jan. 13, 2017. (Official White House Photo by Lawrence Jackson)

This official White House photograph is being made available only for publication by news organizations and/or for personal use printing by the subject(s) of the photograph. The photograph may not be manipulated in any way and may not be used in commercial or political materials, advertisements, emails, products, promotions that in any way suggests approval or endorsement of the President, the First Family, or the White House.



**Yates, Sally (ODAG)**

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**From:** Yates, Sally (ODAG)  
**Sent:** Sunday, January 22, 2017 10:55 PM  
**To:** Axelrod, Matthew (ODAG)  
**Subject:** U.S. Eyes Michael Flynn's Links to Russia - WSJ

<https://www.google.com/amp/www.wsj.com/amp/articles/u-s-eyes-michael-flynn-links-to-russia-1485134942?client=safari>