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CONGRESSIONAL BLACK CAUCUS

February 14, 2020

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

Dear Inspector General Horowitz:

On behalf of the Congressional Black Caucus, I write to express our deep concern surrounding a pattern of potential misconduct and prosecutorial abuse within the Department of Justice (DOJ) involving United States Attorney General William P. Barr. According to public press reports and presidential communication, Attorney General Barr may have improperly intervened in criminal prosecutions counter to the interest of justice and in the advancement of political ends. We request that the Office of Inspector General (OIG) work to independently and impartially investigate these allegations of misconduct and provide its findings to Congress. Further, we request that all findings on Attorney General Barr's conduct be made available to the public.

On Friday, February 14, 2020, various media outlets reported that Attorney General William Barr has ordered an outside prosecutor to review the criminal case against Michael Flynn, President Trump's former national security adviser. As you know, such reviews are uncommon and raise suspicion about potential political inference by DOJ personnel into cases.

In addition, on Tuesday, February 11, 2020, several news outlets also reported Attorney General Barr's unprecedented and public intervention into a federal felony sentencing recommendation for a friend and political ally of the president – Roger Stone. The Washington Post reported that, "All four career prosecutors handling the case against Roger Stone withdrew from the legal proceedings Tuesday – and one quit his job entirely – after the Justice Department signaled it planned to undercut their sentencing recommendation for President Trump's longtime friend and confidant."¹ Those front-line prosecutors' sentencing recommendation for Roger Stone of seven to nine years in prison appears to have been superseded in a new

¹ https://www.washingtonpost.com/national-security/justice-dept-to-reduce-sentencing-recommendation-for-trump-associate-roger-stone-official-says-after-president-calls-it-unfair/2020/02/11/ad81fd36-4cf0-11ea-bf44-f5043eb3918a_story.html

filing. This new filing expressed the previous recommendation by nonpolitical attorneys, "does not accurately reflect the Department of Justice's position on what would be a reasonable sentence in this matter."² Further, the filing expressed that the previously recommended sentence "could be considered excessive and unwarranted under the circumstances," and requested the judge consider an "appropriate" sentence. This reversal came less than 24 hours after a presidential communication stating, "This is a horrible and very unfair situation. The real crimes were on the other side, as nothing happens to them. Cannot allow this miscarriage of justice!"³ Following the DOJ's sentencing reversal, another presidential communication was released stating "Congratulations to Attorney General Bill Barr for taking charge of a case that was totally out of control and perhaps should not have been brought."⁴

This highlights a pattern of highly unusual interventions into criminal investigations by Attorney General Barr. According to an NBC news report on Tuesday, February 11, 2020, this was not the first instance in which senior political appointees have intervened to influence the federal felony prosecutions and sentencing in coordination with Attorney General Barr. The report highlighted the intervention into the sentencing recommendation of former national security advisor Michael Flynn, who pleaded guilty to lying to the Federal Bureau of Investigations (FBI). We understand that Federal prosecutors previously recommended up to six months in prison and their recent filing recommends probation. This recommendation follows several presidential communications condemning the prosecution.

News reports further indicate a possible connection between The White House's abrupt withdrawal of the nomination for Jessie Liu, the former US attorney who headed the office that oversaw Roger Stone's prosecution and a number of other cases linked to Special Counsel Muller's investigation, and Attorney General Barr's intervention into the Stone case. Reports indicate that there was possible coordination with the White House to remove former US Attorney Liu through the nomination so that Attorney General Barr could exert greater control over the case by appointing a U.S. attorney that would fulfill the political aims of the White House.⁵

Furthermore, reports indicate that on Wednesday, February 5, 2020, Attorney General Barr issued an order restricting the opening of politically sensitive investigations – an unprecedented and unusual requirement. The memo said that the FBI and all other divisions under the Justice Department's purview must receive Attorney General Barr's approval before investigating any of the 2020 presidential candidates and established a series of requirements governing whether investigators could open preliminary or full "politically sensitive" criminal and counterintelligence investigations into candidates or their donors.⁶ This uncommon order came on the heels of a number of presidential communications highlighting the president's displeasure with investigations and federal indictments of associates of his campaign and frustration over his impeachment.

Since its establishment in 1971, the Congressional Black Caucus has been committed to using the full Constitutional power, statutory authority, and financial resources of the federal government to ensure that African Americans and other marginalized communities in the United States have the opportunity to achieve the American Dream. Critical to this dream is the fair and impartial justice under the law. Too often the scales of our criminal justice system have weighed heavy on lives and families of marginalized communities. Black and brown communities frequently find themselves facing an unbalanced and often overly harsh criminal justice system. It has been our consistent and unwavering position that all Americans deserve fair and equal justice under the law.

² <https://www.nbcnews.com/politics/justice-department/barr-takes-control-legal-matters-interest-trump-including-stone-sentencing-n1135231>

³ <https://twitter.com/realDonaldTrump/status/1227122206783811585>

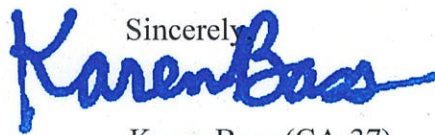
⁴ https://twitter.com/realDonaldTrump/status/1227561237782855680?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1227561237782855680&ref_url=https%3A%2F%2Fwww.nbcnews.com%2Fpolitics%2Fjustice-department%2Fbarr-takes-control-legal-matters-interest-trump-including-stone-sentencing-n1135231

⁵ <https://www.cnn.com/2020/02/11/politics/jesse-liu-treasury-nomination-withdrawn/index.html>

⁶ <https://www.nytimes.com/2020/02/05/us/politics/barr-2020-investigations.html>

In the spirit of the CBC's 49-year history on this point, and as the "Conscience of the Congress," we request that the OIG work to independently and impartially investigate all allegations of misconduct in violation of U.S. law, regulations and prosecutorial standards with all deliberate speed. We request that this investigation be conducted thoroughly and completely, including interviews of all relevant persons within the DOJ, federal government officials, or anyone with knowledge of possible misconduct in these areas. We request that you pursue any and all investigative leads and prosecutorial decisions and furnish your findings to Congress upon completion. Further, we request that all findings on Attorney General Barr's conduct be made available to the public to the maximum extent possible, so that we are free to make any necessary referrals to the appropriate law enforcement authorities or to the New York State and District of Columbia bar associations for possible adjudication and disposition.

Thank you for your attention to this important matter and we look forward to your response.

Sincerely,


Karen Bass (CA-37)
Chair, Congressional Black Caucus