



November 9, 2018

The Honorable Chuck Grassley
Chairman
Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Bob Goodlatte
Chairman
House Judiciary Committee
2309 Rayburn House Office Building
Washington, DC 20515

The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

The Honorable Jerry Nadler
Ranking Member
House Judiciary Committee
2109 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Grassley, Ranking Member Feinstein, Chairman Goodlatte, and Ranking Member Nadler:

I am writing to ask that you request access to, and release to the public, any advice or guidance Department of Justice ethics officials gave Acting Attorney General Matthew Whitaker about his ability to oversee the ongoing investigation into Russian interference with the 2016 presidential election, led by Special Counsel Robert Mueller.

President Donald Trump appointed Mr. Whitaker on November 7, 2018, after announcing the resignation of former Attorney General Jeff Sessions.¹ As you know, Mr. Sessions recused himself from overseeing the Russia investigation, leaving oversight to Deputy Attorney General Rod Rosenstein.²

Mr. Whitaker's public comments regarding the Special Counsel's investigation and his ties to a grand jury witness in this investigation, which have been widely reported, raise legitimate questions about whether he will be able to oversee the investigation fairly.

1. Mr. Whitaker stated that the President can order the Attorney General and FBI to initiate or terminate any investigation on an at-will basis. He also stated that President Trump would have

¹ @realDonaldTrump Twitter post, November 7, 2018. "We are pleased to announce that Matthew G. Whitaker, Chief of Staff to Attorney General Jeff Sessions at the Department of Justice, will become our new Acting Attorney General of the United States. He will serve our Country well..... We thank Attorney General Jeff Sessions for his service, and wish him well! A permanent replacement will be nominated at a later date."

<https://twitter.com/realDonaldTrump/status/1060256619383193601> (Downloaded November 8, 2018)

² Karoun Demirjian, Ed O'Keefe, Sari Horwitz, and Matt Zapotosky, "Attorney General Jeff Sessions will recuse himself from any probe related to 2016 presidential campaign," *The Washington Post*, March 2, 2017.

https://www.washingtonpost.com/powerpost/top-gop-lawmaker-calls-on-sessions-to-recuse-himself-from-russia-investigation/2017/03/02/148c07ac-ff46-11e6-8ebe-6e0dbe4f2bca_story.html (Downloaded November 8, 2018)

been within his rights to order then-FBI Director James Comey to terminate the FBI investigation into former National Security Advisor Michael Flynn.³

2. Mr. Whitaker served as Chairman for the 2014 campaign of Mr. Sam Clovis for the position of Iowa State Treasurer.⁴ Mr. Clovis is now a grand jury witness in the Special Counsel's investigation.⁵ Department of Justice regulations prohibit Mr. Whitaker's involvement in the investigation in light of this relationship.⁶
3. Mr. Whitaker published an opinion piece for CNN on August 6, 2017, entitled "Mueller's investigation of Trump is going too far." In it, he advocates for limiting the scope of the Special Counsel's investigation.⁷

Mr. Whitaker's comments and conflict of interest create serious cause for concern regarding his willingness to remain independent. As Members of Congress with jurisdiction over the Department of Justice, you are in a position to ensure that the Department has adequately considered these issues, and to show the American people what those considerations were.

The position of Attorney General demands indisputable independence and integrity, which is why any candidate to fill the seat must be thoroughly vetted by the Senate regarding questions of character and possible conflicts of interest.

President Trump's temporary placement of Mr. Whitaker circumvented the oversight role of the Senate's vetting process. Given Mr. Whitaker's past comments and his relationship with a grand jury witness to the investigation, it is essential is any guidance from ethics officials about his potential involvement in the investigation be presented to the public.

Sincerely,



Danielle Brian
Executive Director

³ David Corn, "Listen: Trump's Acting Attorney General Said the President Can Kill Any Investigation He Wants," *Mother Jones*, November 8, 2018. <https://www.motherjones.com/politics/2018/11/acting-attorney-general-matt-whittaker-said-the-president-can-kill-any-investigation-he-wants/> (Downloaded November 9, 2018)

⁴ Jeremy Herb and Jeff Zeleny, "Whitaker was campaign chairman for Mueller witness," CNN, November 7, 2018. <https://www.cnn.com/2018/11/07/politics/whitaker-sessions-mueller-clovis/index.html> (Downloaded November 9, 2018)

⁵ Catherine Boudreau and Josh Dawsey, "Clovis said to be 'cooperative witness' in Senate Russia probe," *Politico*, October 31, 2017. <https://www.politico.com/story/2017/10/31/sam-clovis-senate-russia-investigation-244370> (Downloaded November 8, 2018)

⁶ 28 C.F.R. § 45.2 states in regard to Department of Justice employees, "no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution" without written authorization.

⁷ Matthew Whitaker, "Mueller's investigation of Trump is going too far," CNN, August 6, 2017. <https://www.cnn.com/2017/08/06/opinions/rosenstein-should-curb-mueller-whittaker-opinion/index.html> (Downloaded November 8, 2018)