



June 18, 2019

Mr. Pat A. Cipollone
Office of White House Counsel
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Cipollone,

I am writing in response to your June 11, 2019 letter to the Office of Special Counsel (OSC) regarding OSC's recommendation that Assistant to the President and Counselor to the President Kellyanne Conway be removed from federal employment due to her multiple violations of the Hatch Act. Your letter was a gross misinterpretation of OSC's authority and years of legal precedent. In attacking OSC's findings and independence, the letter is also a threat to Special Counsel Henry Kerner, a senior government employee—a threat that will have a chilling effect on all public servants doing their jobs going forward. As a nonpartisan independent watchdog, the Project On Government Oversight (POGO) supports OSC's efforts to hold officials accountable when they violate laws that protect our democracy.

Ms. Conway's blatant disregard for the Hatch Act is a travesty. On multiple occasions, she willingly and knowingly flouted the law by engaging in political activities in her official capacity as a White House spokesperson, which is banned by the law. She may only discuss special elections, midterm races, or the upcoming 2020 campaign in her personal capacity or after she leaves government service.

The Hatch Act is a legal keystone in our merit-based civil service system, and OSC and its employees are charged with enforcing it. The law prevents federal civilian employees from engaging in political activity at the taxpayer's expense—while on duty, while in federal buildings, in official government uniforms, or in government vehicles. The law ensures federal offices and programs are administered in a nonpartisan fashion, protects federal employees from political coercion in the workplace, and guarantees advancement for federal employees based on merit, not political affiliation.

By attacking OSC, demanding that the agency “withdraw and retract” its report on Conway's political activities, and requesting that OSC turn over to your office its entire investigative file and all relevant internal and external correspondence, you are severing the independence afforded by law to the agency. Additionally, you are sending a strong message that dissent within the executive branch will not be tolerated by the White House.

OSC's conclusion that Ms. Conway repeatedly violated the law is clearly correct. Her public mockery of the Hatch Act—saying, “blah, blah, blah” when asked last month by a reporter about

previous violations of the law—sends the wrong message to federal employees who are restricted in talking about political activities while on the government clock. Moreover, the White House’s decision to attack OSC and the Hatch Act while vigorously defending Ms. Conway demonstrates that the Administration believes the rule of law does not apply to senior officials who promote the President’s political agenda.

OSC has worked as an independent branch of government for 40 years, and has a history of exposing senior officials’ violations of the Hatch Act. In 2016, OSC found that then-Secretary of Housing and Urban Development Julián Castro violated the law when he discussed that year’s presidential election during a media interview. Castro admitted the violation and expressed appreciation for OSC’s clarification of the law. Castro was not fired by President Obama; however, Castro was not a repeat offender and did not publicly mock the law.

POGO respectfully requests that the President and the Office of White House Counsel stop chilling government employees—in OSC and across the executive branch—from doing their jobs, and that they publicly assert their firm commitment to applying all of the laws of our country, including the Hatch Act, even to favored members of the Administration.

Sincerely,

A handwritten signature in blue ink that reads "Danielle Brian". The signature is written in a cursive, flowing style.

Danielle Brian
Executive Director