

PRESS CONFERENCE QUESTIONS [OFF-TOPIC]

Not Responsive Records



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FLYNN

Why did your Department lawyers change course and recommend that Flynn receive prison time? Did you or the DAG sign off on this decision?

This is an ongoing case. It would be premature for me to comment at this point.

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On the initial sentencing recommendation filing:

- Department leadership was shocked when they read the sentencing recommendation filed by the DC U.S. Attorney's Office last night.
- That recommendation was inconsistent with what the Department had previously been told would happen.
- The Department believes the sentencing recommendation (7-9 years) is excessive and extreme.
- The Department believes the sentencing recommendation is disproportionate to Stone's offenses.

On the supplemental filing:

- The supplemental filing is reasonable.
- The Department's position as explained in the supplemental filing is that the court has many factors to consider when reaching a decision about the appropriate sentence, and rather than make a particular recommendation, the Department defers to the court's judgment as to the appropriate sentence given the facts of this case.
- The Department's position and deference to the court is not remarkable.

On the timing:

- The Department's decision to change the sentencing recommendation was made shortly after the original filing was made.
- The Department's decision was made prior to the President's tweets.
- The Department had no contact with the White House about the sentencing recommendation or the decision to file the supplemental recommendation.
- The President did not direct the Department to file the supplemental sentencing recommendation.

On the attorney withdrawals:

- [REDACTED] (b) (5)
- The Attorney General respects career employees and values their counsel, but the Attorney General makes the ultimate decision about the positions that the Department takes in court.
- He made that decision here prior to any tweets or commentary and believed that the career attorneys would properly execute that decision. That did not happen.
- The supplemental filing which was signed by a career attorney corrected that error and reflects that the Attorney General made the right call here. The sentencing guidelines in this case are too harsh, and the Department instead defers to the sound judgment of the court to render an appropriate sentence.

On Jessie Liu's nomination:

- The Attorney General thinks highly of Jessie Liu, as reflected by him naming her as chair of his Attorney General Advisory Council.
- Jessie proactively sought a job at the Treasury Department was offered the nomination.
- The Attorney General supported Jessie after she was offered the nomination:
 - He personally called Chairman Crapo in support of her nomination and hearing.
 - He was recently on the Hill for meetings in support of her nomination.
- Jessie stepped aside to pursue her nomination and allow the installation of new U.S. Attorney prior to the end of term.

POSSIBLE ISSUES/QUESTIONS

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V. DC USAO

- a. Jessie Liu
- b. Tim Shea
- c. Roger Stone Case
 - i. AG/Main Justice Involvement
 - ii. AG/Main Justice View re Sentence
 - iii. Communications re Sentencing Recommendation
 - 1. Prior to February 10 Filing
 - 2. After Filing
 - 3. Related to Supplemental Filing
 - iv. Any Communications with WH/POTUS?
 - v. USAO Resignations
- d. Michael Flynn Case

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Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Friday, February 14, 2020 4:25 PM
To: Prim F. Escalona (OLA) (pfescalona@jmd.usdoj.gov); Megan L. Greer (OLA) (mlgreer@jmd.usdoj.gov)
Subject: FW: Letter from Senator Warren and 8 other Senators to Attorney General Barr
Attachments: 2020.02.14 Letter to AG re Roger Stone case.pdf
Importance: High

How do yall think we should handle inquires related to Stone? I'm not sure we would even respond to this.

From: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Sent: Friday, February 14, 2020 2:39 PM
To: Pings, Anne (OLA) <apings@jmd.usdoj.gov>; Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>
Subject: FW: Letter from Senator Warren and 8 other Senators to Attorney General Barr
Importance: High

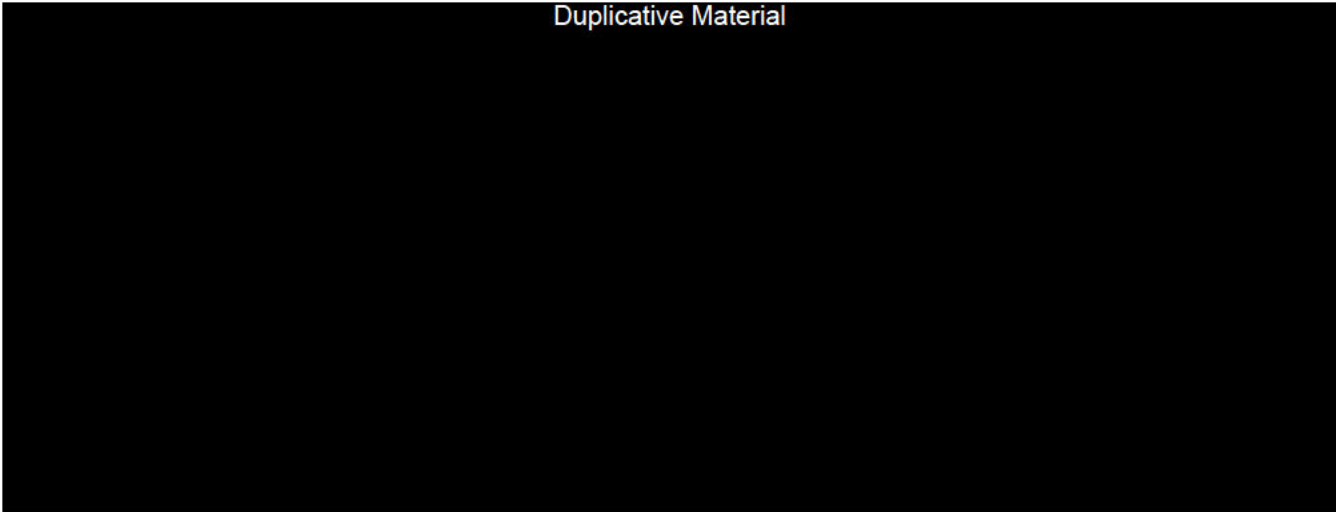
Good afternoon

Pls provide assignment guidance. Thanks.

From: Boyd, Stephen E. (OLA) (b) (6)
Sent: Friday, February 14, 2020 2:00 PM
To: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Subject: FW: Letter from Senator Warren and 8 other Senators to Attorney General Barr

From: Akpa, Stephanie (Warren) (b) (6) >
Sent: Friday, February 14, 2020 1:55 PM
To: Boyd, Stephen E. (OLA) (b) (6) Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>
Cc: Cohen, Brian (Warren) (b) (6)
Subject: Letter from Senator Warren and 8 other Senators to Attorney General Barr

Duplicative Material



Escalona, Prim F. (OLA)

From: Escalona, Prim F. (OLA)
Sent: Friday, February 14, 2020 5:28 PM
To: Hankey, Mary Blanche (OLA)
Cc: Greer, Megan L. (OLA)
Subject: Re: Letter from Senator Warren and 8 other Senators to Attorney General Barr

I agree. This does not call for a response. Let's just close out as not requiring a response.

Sent from my iPhone

On Feb 14, 2020, at 5:02 PM, Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov> wrote:

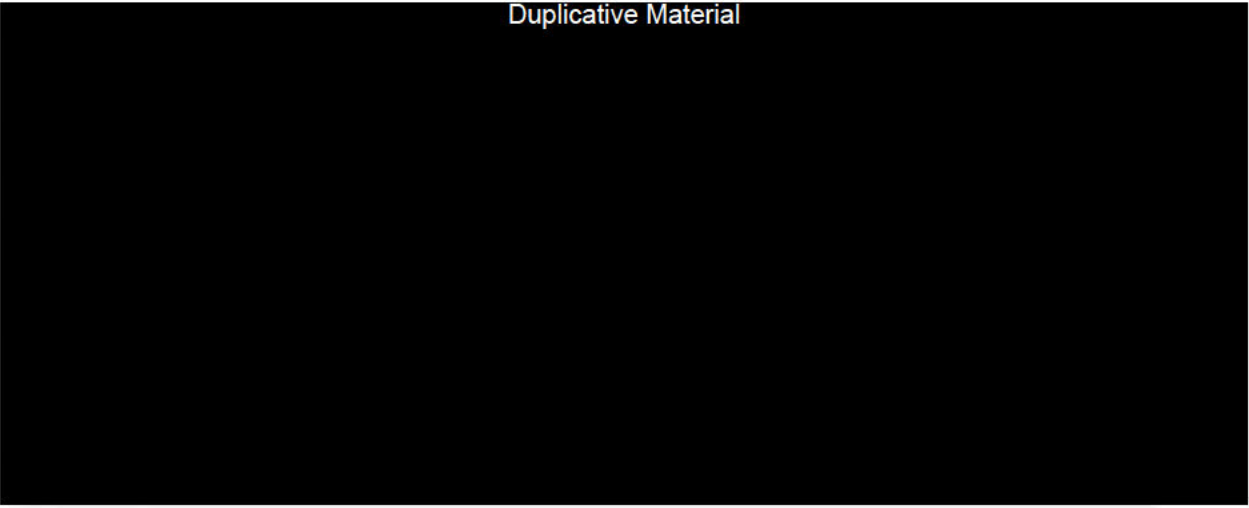
?
Roger that.

From: Greer, Megan L. (OLA) <mlgreer@jmd.usdoj.gov>
Sent: Friday, February 14, 2020 4:56 PM
To: Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>; Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Subject: RE: Letter from Senator Warren and 8 other Senators to Attorney General Barr

I would vote that this one does not call for a response. Otherwise, I would say we should wait until after the sentencing (set for 2/20) and then reassess.

From: Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>
Sent: Friday, February 14, 2020 4:25 PM
To: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>; Greer, Megan L. (OLA) <mlgreer@jmd.usdoj.gov>
Subject: FW: Letter from Senator Warren and 8 other Senators to Attorney General Barr
Importance: High

Duplicative Material



[INSERT DOJ LETTERHEAD]

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL DEPARTMENT COMPONENT HEADS
ALL LAW ENFORCEMENT AGENCY HEADS

FROM: THE ATTORNEY GENERAL

SUBJECT: ADDITIONAL REQUIREMENTS FOR THE OPENING OF CERTAIN SENSITIVE INVESTIGATIONS

The Department of Justice, along with other federal agencies, is charged with the responsibility of protecting the integrity of our elections and democratic system of government against improper influences. While the Department must respond swiftly and decisively when faced with credible threats to our democratic processes, we also must be sensitive to safeguarding the Department's reputation for fairness, neutrality, and nonpartisanship. In certain cases, the existence of a federal criminal or counter-intelligence investigation, if it becomes known to the public, may have unintended effects on our elections. For this reason, the Department has long recognized that it must exercise particular care regarding sensitive investigations and prosecutions that relate to political candidates, campaigns, and other politically sensitive individuals and organizations – especially in an election year.¹

As we enter the 2020 election year, the Department remains committed to ensuring that this fall's elections are conducted in a fair manner that is free from inappropriate influences. Accordingly, I am establishing the following requirements to govern the opening of criminal and counter-intelligence investigations by the Department, including its law enforcement agencies, relating to politically sensitive individuals and entities. These requirements are intended to operate in addition to all existing policies governing the opening of sensitive investigations, including all notice, consultation, and approval requirements currently found in the Justice Manual and those in place at the Department's law enforcement agencies.

¹ See, e.g., Loretta Lynch, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, April 11, 2016; Eric Holder, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, March 9, 2012; Michael Mukasey, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, March 5, 2008.

No investigation (including any preliminary investigation)² may be opened or initiated by the Department or any of its law enforcement agencies:

1. Of a Declared candidate for president or vice president, a presidential campaign, or a senior presidential campaign staff member or advisor³ absent prior (i) written notification to and consultation with the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter and (ii) written approval of the Attorney General, through the Deputy Attorney General;
2. Of a Declared candidate for U.S. Senate or U.S. House of Representatives, or his or her campaign, absent prior written notification to and consultation with the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter;
3. Relating to illegal contributions, donations, or expenditures by foreign nationals to a presidential or congressional campaign absent prior written notification to the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter.

Department law enforcement agencies are directed to adopt appropriate internal policies and procedures to ensure that the agency head reviews and approves any matter covered by this memorandum before the matter is presented to Department leadership for consultation or approval.

As a general matter, it is often good practice to notify the Office of the Deputy Attorney General (ODAG) concerning any sensitive or high-profile investigation to ensure that the Department can effectively coordinate its resources and efforts. Accordingly, once an investigation covered by this memorandum has been opened, component and law enforcement agency heads should make arrangements to provide ODAG with regular updates. Per the Justice Manual, U.S. Attorneys and component heads also should provide updates to Department leadership via Urgent Reports when appropriate.

The scope of this memorandum should be broadly construed to ensure that Department leadership is made aware of the opening of matters that could potentially be disruptive to our democratic processes if publicly disclosed prior to an election. You should err on the side of consulting or seeking approval if there could be any question as to whether such actions are required under this policy.

² Upon opening an assessment of, or taking exploratory investigative steps relating to, any person or campaign covered by this memorandum, law enforcement agencies shall promptly notify in writing the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter.

³ This includes any person who has been publicly announced by a campaign as a staffer or member of an official campaign advisory committee or group.

The requirements set forth in this memorandum shall remain in effect through the 2020 elections and until withdrawn or amended by further order of the Attorney General. Following the 2020 elections, the Department will study its experiences and consider whether changes to these requirements are necessary. In addition, I am directing that Department components and law enforcement agencies review their existing policies governing notification, consultation, and/or approval of politically sensitive investigations and that each submit a report to ODAG within sixty (60) days summarizing their existing policies and making recommendations for any necessary changes or updates.

As noted, the Department has a strong interest in the prosecution of election-related crimes, including those involving corruption of the election process. Yet we must investigate and prosecute those matters with sensitivity and care to ensure that the Department's actions do not unnecessarily advantage or disadvantage any candidate or political party. As always, I rely on you to exercise your sound judgment in pursuing all meritorious cases while at the same time maintaining our duty to protect the First Amendment rights of our citizens and their right to participate in a democratic electoral process free from improper activity or influences.

[INSERT DOJ LETTERHEAD]

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DuCharme, Seth (ODAG)

From: DuCharme, Seth (ODAG)
Sent: Tuesday, January 7, 2020 2:43 PM
To: Liu, Jessie (USADC)
Cc: Weinsheimer, Bradley (ODAG); Demers, John C. (NSD); Evangelista, Alessio (USADC)
Subject: Re: Prosecutors Ask That Michael Flynn Get Prison Time - The New York Times

Thanks. This looks fairly straightforward too:

“It is within the government’s sole discretion to determine whether the defendant has ‘substantially assisted’ the government,” prosecutor Brandon Van Grack wrote in a 33-page court filing. “In light of the complete record, including actions subsequent to December 18, 2018, that negate the benefits of much of the defendant’s earlier cooperation, the government no longer deems the defendant’s assistance ‘substantial.’ ”

Sent from my iPhone

On Jan 7, 2020, at 2:37 PM, Liu, Jessie (USADC) <JLiu3@usa.doj.gov> wrote:

Yes. Some articles erroneously say we asked for prison time, which we did not. We just asked for a sentence within the guidelines range that complies with 18 USC 3553.

On Jan 7, 2020, at 2:34 PM, DuCharme, Seth (ODAG) <seducharme@jmd.usdoj.gov> wrote:

“Federal prosecutors recommended on Tuesday that President Trump’s former national security adviser Michael T. Flynn be sentenced to up to six months in prison”

Sounds like we actually just asked for the guidelines range of zero to six months, right?

Sent from my iPhone

On Jan 7, 2020, at 2:12 PM, Liu, Jessie (USADC) <JLiu3@usa.doj.gov> wrote:

<https://www.nytimes.com/2020/01/07/us/politics/flynn-prosecutors-sentencing.html>

DuCharme, Seth (ODAG)

From: DuCharme, Seth (ODAG)
Sent: Tuesday, January 7, 2020 4:05 PM
To: Rosen, Jeffrey A. (ODAG)
Subject: Re: pool report #7b

Thanks

I've been following the press reports -

The headlines are misleading. We asked for a sentence of between zero and six months, which is the applicable advisory Guidelines

The headlines say we ask for jail time - the body of most of the articles say "up to six months"

Sent from my iPhone

On Jan 7, 2020, at 4:02 PM, Rosen, Jeffrey A. (ODAG) <jarosen@jmd.usdoj.gov> wrote:

Note last paragraph.

From: White House Press Office <info@mail.whitehouse.gov>
Sent: Tuesday, January 7, 2020 3:57 PM
Subject: pool report #7b/expanded Ukraine quote re aid sent "ahead of schedule"

From: Gillman, Todd <tgillman@dallasnews.com>

Sent: Tuesday, January 7, 2020 3:48 PM

Subject: pool report #7b/expanded Ukraine quote re aid sent "ahead of schedule"

This is a yet more expanded version of the president's comments on Ukraine, including the part where he asserted that military aid that had been frozen was ultimately delivered "two or three weeks ahead of schedule."

Q: "Will you be OK if John Bolton testifies? He indicated yesterday that he would if he is subpoenaed."

Trump: "That's going to be up to the lawyers. It'll be up to the Senate, and we'll see how they feel. He would know nothing about what we're talking about, because as you know the Ukrainian government came out with a very strong statement no pressure no anything and this from the boss. That's from the President of Ukraine. The Foreign Minister came out with a statement that was equally as strong. And

frankly, if you look at it and you look at everything, all they have to do is read the transcripts. Take a look, not just at one, you take a look at two transcripts. They were absolutely perfect. There was absolutely nothing done wrong. There was no false statement, and it's crazy that it's gotten to a point where you -- look, Ukraine, the President of Ukraine said there was no pressure whatsoever. There was no pressure on his country whatsoever. And by the way, in terms of the money, it got there two or three weeks ahead of schedule, long before it was supposed to be there. There was absolutely nothing done wrong."

Also, as pool was heading out of the Oval, Fox's John Roberts asked about the prosecution's recommendation of 6 months in prison for former National Security Advisor Michael Flynn. POTUS said he was learning about it from the question and had nothing of substance to say on it.

Todd J. Gillman

Washington Bureau Chief

The Dallas Morning News

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