

**Crytzer, Katherine (OLP)**

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**From:** Crytzer, Katherine (OLP)  
**Sent:** Monday, March 18, 2019 10:18 AM  
**To:** Freeman, Lindsey (OLP); Shults, Anthony M. (OLP)  
**Subject:** AG Barr QFRs  
**Attachments:** Responses to Questions for the Record for William P Barr with Appendix.pdf

I am still looking for the briefer, but do a control F search for the topic we were discussing earlier. Thanks!

**Katie Crytzer**  
**Chief of Staff**  
Office of Legal Policy  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530  
Office: (202) 353-3069  
Cell: (b) (6)  
[Katherine.Crytzer2@usdoj.gov](mailto:Katherine.Crytzer2@usdoj.gov)

January 27, 2019

The Honorable Lindsey Graham  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Dianne Feinstein  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Chairman Graham and Ranking Member Feinstein:

Enclosed please find responses to Questions for the Record that I received from Ranking Member Feinstein, as well as Senators Grassley, Cornyn, Tillis, Crapo, Kennedy, Leahy, Durbin, Whitehouse, Klobuchar, Coons, Blumenthal, Hirono, Booker, and Harris, following my appearance before the Senate Committee on the Judiciary on January 15, 2019.

Sincerely,

A handwritten signature in blue ink, appearing to read "WP Barr".

William P. Barr

**QUESTIONS FOR THE RECORD  
WILLIAM P. BARR  
NOMINEE TO BE UNITED STATES ATTORNEY GENERAL**

**QUESTIONS FROM SENATOR DURBIN**

1

Non-Responsive Record



## Non-Responsive Record

4. At your hearing, Professor Neil Kinkopf said: “It is clear that Barr takes the DOJ regulations to mean that he should release not the Mueller report, but rather his own report. Second, he reads DOJ regulations and policy and practice to forbid any discussion of decisions declining to indict declination decisions. In combination with the DOJ view that a sitting president may not be indicted, this suggests that Barr will take the position that any discussion or release of the Mueller report relating to the President, who, again, cannot be indicted, would be improper and prohibited by DOJ policy and regulations.”
  - a. Do you take DOJ regulations to mean that you should release not the Mueller report, but rather your own report?

**RESPONSE:** The applicable regulations provide that the Special Counsel will make a “confidential report” to the Attorney General “explaining the prosecution or declination decisions reached by the Special Counsel.” *See* 28 C.F.R. § 600.8. The commentary to these regulations, which were issued by the Clinton Administration Department of Justice, explains that the Special

Counsel's report is to be "handled as a confidential document, as are internal documents relating to any federal criminal investigation. The interests of the public in being informed of and understanding the reasons for the actions of the Special Counsel will be addressed" through the Attorney General's reporting requirements. *See* 64 Fed. Reg. 37038, 37040-41. Under the regulations, the Attorney General must "notify the Chairman and Ranking member of the Judiciary Committees of each House of Congress . . . Upon conclusion of the Special Counsel's investigation." 28 C.F.R. § 600.9(a)(3). The regulations further provide that the Attorney General may publicly release the Attorney General's notification if he or she concludes that doing so "would be in the public interest, to the extent that release would comply with applicable legal restrictions." *Id.* § 600.9(c).

I believe it is very important that the public and Congress be informed of the results of the Special Counsel's work. For that reason, if confirmed, my goal will be to provide as much transparency as I can consistent with the law, including the regulations discussed above, and the Department's longstanding practices and policies. Where judgments are to be made by me, I will make those judgments based solely on the law and Department policy, and will let no personal, political, or other improper interests influence my decision. As I stated during the hearing, if confirmed, I intend to consult with Special Counsel Mueller and Deputy Attorney General Rosenstein regarding any report that is being prepared and any disclosures or notifications that I make under applicable regulations as Attorney General.

- b. Do you read DOJ regulations and policy and practice to forbid any discussion of decisions declining to indict?

**RESPONSE:** The regulations governing public discussion of a Special Counsel's declination decisions are discussed above in my response to Question 4(a). In addition, the Justice Manual, § 9-27.760, cautions prosecutors to be sensitive to the privacy and reputational interests of uncharged third parties. It is also my understanding that it is Department policy and practice not to criticize individuals for conduct that does not warrant prosecution.

- c. Do you believe it would be improper and/or prohibited by DOJ policy or regulations to provide Congress or the public with any discussion or release of parts of Mueller's report relating to the President?

**RESPONSE:** Please see my responses to Questions 4(a) and 4(b) above.

- d. 28 CFR 600.9(c) provides that "The Attorney General may determine that public release of these reports would be in the public interest, to the extent that release would comply with applicable legal restrictions" (emphasis added). Do you read the term "these reports" to include the report issued by the Special Counsel to the Attorney General pursuant to 28 CFR 600.8(c)?

**RESPONSE: Please see my response to Question 4(a) above.**

- e. 28 CFR 600.9(c) also provides that “All other releases of information by any Department of Justice employee, including the Special Counsel and staff, concerning matters handled by Special Counsels shall be governed by the generally applicable Departmental guidelines concerning public comment with respect to any criminal investigation, and relevant law.” Is it your view that this sentence governs the release of information concerning matters handled by Special Counsels to Congress, as opposed to public release?

**RESPONSE: Please see my response to Question 4(a) above.**

- f. Do you adhere to OLC’s view, stated in its October 16, 2000 opinion “A Sitting President’s Amenability to Indictment and Criminal Prosecution,” that “a sitting President is immune from indictment as well as from further criminal process” and that the Constitution provides the Legislative Branch the only authority to bring charges of criminal misconduct against a president through the impeachment process?

**RESPONSE: Although I have not studied this issue in detail, my understanding is that the October 16, 2000 opinion by the Office of Legal Counsel remains operative at the Department.**

- g. If you believe the answer to (f) is yes, then shouldn’t Congress be given access to the Special Counsel’s full investigative findings so that Congress can best evaluate whether or not to hold a President accountable for potential criminal misconduct through the impeachment process?

**RESPONSE: I believe it is very important that the public and Congress be informed of the results of the Special Counsel’s work. For that reason, if confirmed, my goal will be to provide as much transparency as I can consistent with the law, including the regulations discussed above, and the Department’s longstanding practices and policies. Where judgments are to be made by me, I will make those judgments based solely on the law and Department policy, and will let no personal, political, or other improper interests influence my decision. As I stated during the hearing, if confirmed, I intend to consult with Special Counsel Mueller and Deputy Attorney General Rosenstein regarding any report that is being prepared and any disclosures or notifications that I make under applicable regulations as Attorney General.**

Non-Responsive Record

**QUESTIONS FOR THE RECORD  
WILLIAM P. BARR  
NOMINEE TO BE UNITED STATES ATTORNEY GENERAL**

**QUESTIONS FROM SENATOR WHITEHOUSE**

**Protecting the Independence of the DOJ and Mueller Investigation**

1

Non-Responsive Record



4. Referring to former FBI Director Comey's conduct in the lead-up to the 2016 election, you testified that "if you are not going to indict someone, then you do not stand up there and unload negative information about the person. That is not the way the Department of Justice does business." As I told you during our private meeting, when it comes to ordinary prosecutorial decisions, I wholeheartedly agree. How does that general principle apply to the required report of the Special Counsel?
- a. Is it your view that DOJ regulations, policy, and practice forbid public discussion of wrongdoing whenever the Department of Justice has declined to seek indictments related to such wrongdoing? Are there any differences in how those regulations, policies, and practice govern a Special Counsel report?
  - b. Is it your view that DOJ regulations, policy, and practice also forbid the indictment of a sitting president? If so, how can the policy obtain Article III review so that a court may "say what the law is"? Should OLC be the final arbiter of this controversial question?
  - c. What if there are grounds to indict and the sole reason for declination is the current DOJ policy against indicting a sitting president?
  - d. Should derogatory information against an uncharged president or other official subject to impeachment be provided to Congress? How is Congress to exercise its constitutional rights and carry out its constitutional obligations if such information is shielded?
  - e. Should we interpret your statements at the hearing that (1) derogatory information against an uncharged individual should not be disclosed and (2) a sitting president cannot be indicted to mean that you would not release to Congress any contents of the Mueller report that contain negative information about President Trump? If we should not, why not?
  - f. If the Mueller investigation uncovers evidence of criminality by the President, but DOJ declines to prosecute solely on the basis of the OLC memo prohibiting indictment of a sitting president, and DOJ policy meanwhile prohibits the disclosure of derogatory information about an uncharged individual, will you keep from Congress and the American people evidence that the President may have committed criminal acts?
  - g. With respect to OLC's conclusion that the president cannot be indicted under any circumstances while in office, is there any other person in the country who similarly cannot be indicted under any circumstances?
  - h. Do the public and Congress have a significant interest in facts indicating criminal wrongdoing by the President of the United States while in office?



- i. Do you agree that Congress has a constitutional responsibility to investigate and prosecute a President for high crimes and misdemeanors when warranted?
- j. Do you agree that, in order to carry out its constitutional responsibilities, Congress should be made aware by the executive branch of conduct potentially constituting high crimes and misdemeanors?

**RESPONSE:** The applicable regulations provide that the Special Counsel will make a “confidential report” to the Attorney General “explaining the prosecution or declination decisions reached by the Special Counsel.” *See* 28 C.F.R. § 600.8. The commentary to these regulations, which were issued by the Clinton Administration Department of Justice, explains that the Special Counsel’s report is to be “handled as a confidential document, as are internal documents relating to any federal criminal investigation. The interests of the public in being informed of and understanding the reasons for the actions of the Special Counsel will be addressed” through the Attorney General’s reporting requirements. *See* 64 Fed. Reg. 37038, 37040-41. Under the regulations, the Attorney General must “notify the Chairman and Ranking member of the Judiciary Committees of each House of Congress . . . Upon conclusion of the Special Counsel’s investigation.” 28 C.F.R. § 600.9(a)(3). The regulations further provide that the Attorney General may publicly release the Attorney General’s notification if he or she concludes that doing so “would be in the public interest, to the extent that release would comply with applicable legal restrictions.” *Id.* § 600.9(c).

In addition, the Justice Manual, § 9-27.760, cautions prosecutors to be sensitive to the privacy and reputational interests of uncharged third parties. It is also my understanding that it is Department policy and practice not to criticize individuals for conduct that does not warrant prosecution.

An opinion issued by the Office of Legal Counsel held that an indictment or criminal prosecution of a sitting President would unconstitutionally undermine the capacity of the executive branch to perform its constitutionally assigned functions. To the best of my understanding, the OLC opinion remains operative.

Congress can and does conduct its own investigations, and its right to do so is not precluded by the Department’s decision not to provide certain information about an uncharged individual gathered during the course of a criminal investigation.

As I testified before the Committee, I believe that it is very important that the public and Congress be informed of the results of the Special Counsel’s work. My goal will be to provide as much transparency as I can consistent with the law, including the regulations discussed above, and the Department’s longstanding practices and policies.

**The Constitution grants the legislative branch the power to impeach for, and convict of, treason, bribery, or other high crimes and misdemeanors. I am not in a position to opine or speculate on the manner in which the Congress determines what constitutes a high crime or misdemeanor, or how the Congress gathers evidence in support of or in contradiction to that conclusion.**

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Non-Responsive Record

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7

## Non-Responsive Record



22. On the first page of your June 8 memo, while criticizing Mueller's obstruction theory, you acknowledged that "[o]bviously, the President and any other official can commit obstruction in this classic sense of sabotaging a proceeding's truth-finding function. Thus, for example, if a President knowingly destroys or alters evidence, suborns perjury, or induces a witness to change testimony, or commits any act deliberately impairing the integrity or availability of evidence, then he, like anyone else, commits the crime of obstruction."
- a. You've stated that you believe the OLC opinion that a sitting president cannot be indicted is correct. If that is the case, what would you do if the Mueller investigation presented you with evidence that led you to conclude President

Trump had committed obstruction of justice in, as you say, the “classic sense”?  
How about treason?

**RESPONSE:** If confirmed, it is possible that I will be responsible for overseeing the Special Counsel’s investigation under applicable regulations. Accordingly, it would not be appropriate for me to speculate regarding hypothetical scenarios. As a general matter, if presented with novel legal questions of constitutional importance while serving as Attorney General, I would likely consult with the Office of Legal Counsel and other relevant personnel within the Department of Justice to determine the appropriate path forward under applicable law.

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Non-Responsive Record

Non-Responsive Record

**O'Callaghan, Edward C. (ODAG)**

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**From:** O'Callaghan, Edward C. (ODAG)  
**Sent:** Friday, March 22, 2019 9:30 PM  
**To:** Rosenstein, Rod (ODAG)  
**Cc:** Weinsheimer, Bradley (ODAG)  
**Subject:** Fwd: Draft  
**Attachments:** SCO conclusions letter.docx; ATT00001.htm

Brad put together the attached thoughts for consideration.

Edward C. O'Callaghan  
202-514-2105

Begin forwarded message:

**From:** "Weinsheimer, Bradley (ODAG)" <[bradweinsheimer@jmd.usdoj.gov](mailto:bradweinsheimer@jmd.usdoj.gov)>  
**Date:** March 22, 2019 at 9:21:22 PM EDT  
**To:** "O'Callaghan, Edward C. (ODAG)" <[ecocallaghan@jmd.usdoj.gov](mailto:ecocallaghan@jmd.usdoj.gov)>  
**Subject:** Draft

Food for thought, (b) (5) .

Brad Weinsheimer  
Associate Deputy Attorney General  
Office: 202-305-7848  
Cell: (b) (6)  
[Bradley.weinsheimer@usdoj.gov](mailto:Bradley.weinsheimer@usdoj.gov)

**Weinsheimer, Bradley (ODAG)**

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**From:** Weinsheimer, Bradley (ODAG)  
**Sent:** Saturday, March 23, 2019 9:23 AM  
**To:** O'Callaghan, Edward C. (ODAG); Rosenstein, Rod (ODAG)  
**Subject:** RE: Draft  
**Attachments:** SCO conclusions letter v.2.docx

(b) (5)

A large rectangular area of the document is completely redacted with black bars, obscuring several lines of text.

Thanks, Brad.

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**From:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Sent:** Friday, March 22, 2019 9:30 PM  
**To:** Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>  
**Cc:** Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>  
**Subject:** Fwd: Draft

Duplicative Material

A large rectangular area of the document is completely redacted with a solid grey block, obscuring the majority of the page content below the 'Duplicative Material' header.

**O'Callaghan, Edward C. (ODAG)**

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**From:** O'Callaghan, Edward C. (ODAG)  
**Sent:** Saturday, March 23, 2019 10:18 AM  
**To:** Weinsheimer, Bradley (ODAG); Rosenstein, Rod (ODAG)  
**Subject:** RE: Draft  
**Attachments:** SCO conclusions letter v.2eoc.docx

Edward C. O'Callaghan  
202-514-2105

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**From:** Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>  
**Sent:** Saturday, March 23, 2019 9:23 AM  
**To:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>  
**Subject:** RE: Draft

Duplicative Material



**Weinsheimer, Bradley (ODAG)**

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**From:** Weinsheimer, Bradley (ODAG)  
**Sent:** Saturday, March 23, 2019 10:34 AM  
**To:** O'Callaghan, Edward C. (ODAG); Rosenstein, Rod (ODAG)  
**Subject:** RE: Draft  
**Attachments:** SCO conclusions letter v.3.docx

I caught one typo, added (b) (5)

. Brad.

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**From:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Sent:** Saturday, March 23, 2019 10:18 AM  
**To:** Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>; Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>  
**Subject:** RE: Draft

Duplicative Material





**O'Callaghan, Edward C. (ODAG)**

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**From:** O'Callaghan, Edward C. (ODAG)  
**Sent:** Saturday, March 23, 2019 7:17 PM  
**To:** Weinsheimer, Bradley (ODAG)  
**Subject:** FW: 2019.03.23 SC Second Notification DRAFT 715 PM  
**Attachments:** 2019.03.23 SC Second Notification DRAFT 715 PM.docx

Edward C. O'Callaghan  
202-514-2105

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**From:** Rabbitt, Brian (OAG) <brabbitt@jmd.usdoj.gov>  
**Sent:** Saturday, March 23, 2019 7:14 PM  
**To:** Rosenstein, Rod (ODAG) <rosenstein@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Engel, Steven A. (OLC) <(b)(6) per OLC> Whitaker, Henry C. (OLC) <(b)(6) per OLC>  
**Subject:** 2019.03.23 SC Second Notification DRAFT 715 PM

All – Attached is a new draft that reflects our discussion.

**Rabbitt, Brian (OAG)**

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**From:** Rabbitt, Brian (OAG)  
**Sent:** Sunday, March 24, 2019 1:51 PM  
**To:** O'Callaghan, Edward C. (ODAG); Engel, Steven A. (OLC); Rosenstein, Rod (ODAG); Whitaker, Henry C. (OLC)  
**Subject:** Draft Letter  
**Attachments:** 2019.03.24 SC Second Notification DRAFT 130 PM.docx

Proposed final draft attached. Please review ASAP and respond with edits.

Brian C. Rabbitt  
Chief of Staff  
Office of the Attorney General  
U.S. Department of Justice  
T: (b) (6)  
M: (b) (6)  
[Brian.Rabbitt@usdoj.gov](mailto:Brian.Rabbitt@usdoj.gov)



**The Attorney General**  
Washington, D.C.

March 24, 2019

The Honorable Lindsey Graham  
Chairman, Committee on the Judiciary  
United States Senate  
290 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Jerrold Nadler  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2132 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Dianne Feinstein  
Ranking Member, Committee on the Judiciary  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Doug Collins  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
1504 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Graham, Chairman Nadler, Ranking Member Feinstein, and Ranking Member Collins:

As a supplement to the notification provided on Friday, March 22, 2019, I am writing today to advise you of the principal conclusions reached by Special Counsel Robert S. Mueller III and to inform you about the status of my initial review of the report he has prepared.

***The Special Counsel's Report***

On Friday, the Special Counsel submitted to me a “confidential report explaining the prosecution or declination decisions” he has reached, as required by 28 C.F.R. § 600.8(c). This report is entitled “Report on the Investigation into Russian Interference in the 2016 Presidential Election.” Although my review is ongoing, I believe that it is in the public interest to describe the report and to summarize the principal conclusions reached by the Special Counsel and the results of his investigation.

The report explains that the Special Counsel and his staff thoroughly investigated allegations that members of the presidential campaign of Donald J. Trump, and others associated with it, conspired with the Russian government in its efforts to interfere in the 2016 U.S. presidential election, or sought to obstruct the related federal investigations. In the report, the Special Counsel noted that, in completing his investigation, he employed 19 lawyers who were assisted by a team of approximately 40 FBI agents, intelligence analysts, forensic accountants, and other professional staff. The Special Counsel issued more than 2,800 subpoenas, executed nearly 500 search warrants, obtained more than 230 orders for communication records, issued almost 50 orders authorizing use of pen registers, made 13 requests to foreign governments for evidence, and interviewed approximately 500 witnesses.



The Special Counsel obtained a number of indictments and convictions of individuals and entities in connection with his investigation, all of which have been publicly disclosed. During the course of his investigation, the Special Counsel also referred several matters to other offices for further action. The report does not recommend any further indictments, nor did the Special Counsel obtain any sealed indictments that have yet to be made public. Below, I summarize the principal conclusions set out in the Special Counsel's report.

**Russian Interference in the 2016 U.S. Presidential Election.** The Special Counsel's report is divided into two parts. The first describes the results of the Special Counsel's investigation into Russia's interference in the 2016 U.S. presidential election. The report outlines the Russian effort to influence the election and documents crimes committed by persons associated with the Russian government in connection with those efforts. The report further explains that a primary consideration for the Special Counsel's investigation was whether any Americans – including individuals associated with the Trump campaign – joined the Russian conspiracies to influence the election, which would be a federal crime. The Special Counsel's investigation did not find that the Trump campaign or anyone associated with it conspired or coordinated with Russia in its efforts to influence the 2016 U.S. presidential election. As the report states: “[T]he investigation did not establish that members of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities.”<sup>1</sup>

The Special Counsel's investigation determined that there were two main Russian efforts to influence the 2016 election. The first involved attempts by a Russian organization, the Internet Research Agency (IRA), to conduct disinformation and social media operations in the United States designed to sow social discord, eventually with the aim of interfering with the election. As noted above, the Special Counsel did not find that any U.S. person or Trump campaign official or associate conspired or knowingly coordinated with the IRA in its efforts, although the Special Counsel brought criminal charges against a number of Russian nationals and entities in connection with these activities.

The second element involved the Russian government's efforts to conduct computer hacking operations designed to gather and disseminate information to influence the election. The Special Counsel found that Russian government actors successfully hacked into computers and obtained emails from persons affiliated with the Clinton campaign and Democratic Party organizations, and publicly disseminated those materials through various intermediaries, including WikiLeaks. Based on these activities, the Special Counsel brought criminal charges against a number of Russian military officers for conspiring to hack into computers in the United States for purposes of influencing the election. But as noted above, the Special Counsel did not find that the Trump campaign, or anyone associated with it, conspired or coordinated with the Russian government in these efforts, despite multiple offers from Russian-affiliated individuals to assist the Trump campaign.

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<sup>1</sup> In assessing potential conspiracy charges, the Special Counsel also considered whether members of the Trump campaign “coordinated” with Russian election interference activities. The Special Counsel defined “coordination” as an “agreement—tacit or express—between the Trump Campaign and the Russian government on election interference.”



**Obstruction of Justice.** The report's second part addresses a number of actions by the President – most of which have been the subject of public reporting – that the Special Counsel investigated as potentially raising obstruction-of-justice concerns. After making a “thorough factual investigation” into these matters, the Special Counsel considered whether to evaluate the conduct under Department standards governing prosecution and declination decisions but ultimately determined not to make a traditional prosecutorial judgment. The Special Counsel therefore did not draw a conclusion – one way or the other – as to whether the examined conduct constituted obstruction. Instead, for each of the relevant actions investigated, the report sets out evidence on both sides of the question and leaves unresolved what the Special Counsel views as “difficult issues” of law and fact concerning whether the President's actions and intent could be viewed as obstruction. The Special Counsel states that “while this report does not conclude that the President committed a crime, it also does not exonerate him.”

The Special Counsel's decision to describe the facts of his obstruction investigation without reaching any legal conclusions leaves it to the Attorney General to determine whether the conduct described in the report constitutes a crime. Over the course of the investigation, the Special Counsel's office engaged in discussions with certain Department officials regarding many of the legal and factual matters at issue in the Special Counsel's obstruction investigation. After reviewing the Special Counsel's final report on these issues; consulting with Department officials, including the Office of Legal Counsel; and applying the principles of federal prosecution that guide our charging decisions, Deputy Attorney General Rod Rosenstein and I have concluded that the evidence developed during the Special Counsel's investigation is not sufficient to establish that the President committed an obstruction-of-justice offense. Our determination was made without regard to, and is not based on, the constitutional considerations that surround the indictment and criminal prosecution of a sitting president.<sup>2</sup>

In making this determination, we noted that the Special Counsel recognized that “the evidence does not establish that the President was involved in an underlying crime related to Russian election interference,” and that, while not determinative, the absence of such evidence bears upon the President's intent with respect to obstruction. Generally speaking, to obtain and sustain an obstruction conviction, the government would need to prove beyond a reasonable doubt that a person, acting with corrupt intent, engaged in obstructive conduct with a sufficient nexus to a pending or contemplated proceeding. In cataloguing the President's actions, many of which took place in public view, the report identifies no actions that, in our judgment, constitute obstructive conduct, had a nexus to a pending or contemplated proceeding, and were done with corrupt intent, each of which, under the Department's principles of federal prosecution guiding charging decisions, would need to be proven beyond a reasonable doubt to establish an obstruction-of-justice offense.

#### *Status of the Department's Review*

The relevant regulations contemplate that the Special Counsel's report will be a “confidential report” to the Attorney General. See Office of Special Counsel, 64 Fed. Reg. 37,038,

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<sup>2</sup> See *A Sitting President's Amenability to Indictment and Criminal Prosecution*, 24 Op. O.L.C. 222 (2000).

37,040-41 (July 9, 1999). As I have previously stated, however, I am mindful of the public interest in this matter. For that reason, my goal and intent is to release as much of the Special Counsel's report as I can consistent with applicable law, regulations, and Departmental policies.

Based on my discussions with the Special Counsel and my initial review, it is apparent that the report contains material that is or could be subject to Federal Rule of Criminal Procedure 6(e), which imposes restrictions on the use and disclosure of information relating to "matter[s] occurring before [a] grand jury." Fed. R. Crim. P. 6(e)(2)(B). Rule 6(e) generally limits disclosure of certain grand jury information in a criminal investigation and prosecution. *Id.* Disclosure of 6(e) material beyond the strict limits set forth in the rule is a crime in certain circumstances. *See, e.g.*, 18 U.S.C. § 401(3). This restriction protects the integrity of grand jury proceedings and ensures that the unique and invaluable investigative powers of a grand jury are used strictly for their intended criminal justice function.

Given these restrictions, the schedule for processing the report depends in part on how quickly the Department can identify the 6(e) material that by law cannot be made public. I have requested the assistance of the Special Counsel in identifying all 6(e) information contained in the report as quickly as possible. Separately, I also must identify any information that could impact other ongoing matters, including those that the Special Counsel has referred to other offices. As soon as that process is complete, I will be in a position to move forward expeditiously in determining what can be released in light of applicable law, regulations, and Departmental policies.

\* \* \*

As I observed in my initial notification, the Special Counsel regulations provide that "the Attorney General may determine that public release of" notifications to your respective Committees "would be in the public interest." 28 C.F.R. § 600.9(c). I have so determined, and I will disclose this letter to the public after delivering it to you.

Sincerely,



William P. Barr  
Attorney General



**Engel, Steven A. (OLC)**

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**From:** Engel, Steven A. (OLC)  
**Sent:** Sunday, April 7, 2019 5:24 PM  
**To:** Gannon, Curtis E. (OLC); Rabbitt, Brian (OAG)  
**Subject:** Draft cover letter  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.7.docx

Attached is the current draft of the cover letter. This reflects my effort to incorporate the AG's thoughts, as well as my own, and draws on the Action Memo when it comes to the (b) (5) [REDACTED]. Comments/improvements welcome.

**Steven A. Engel**  
Assistant Attorney General  
Office of Legal Counsel  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Office (b)(6) per OLC [REDACTED]

**Engel, Steven A. (OLC)**

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**From:** Engel, Steven A. (OLC)  
**Sent:** Sunday, April 7, 2019 10:13 PM  
**To:** Gannon, Curtis E. (OLC); Rabbitt, Brian (OAG)  
**Subject:** RE: Draft cover letter  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.7.docx

Here's the latest.

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**From:** Engel, Steven A. (OLC)  
**Sent:** Sunday, April 7, 2019 5:24 PM  
**To:** Gannon, Curtis E. (OLC) (b)(6) per OLC Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>  
**Subject:** Draft cover letter

Duplicative Material





**Rabbitt, Brian (OAG)**

---

**From:** Rabbitt, Brian (OAG)  
**Sent:** Monday, April 8, 2019 12:06 PM  
**To:** Engel, Steven A. (OLC) (b)(6) per OLC Gannon, Curtis E. (OLC)  
(b)(6) per OLC  
**Subject:** 2019.04.11 SC Cover Memo DRAFT 4.7 - 4.8 eds  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.7 - 4.8 eds.docx

Some initial suggested edits.

**Engel, Steven A. (OLC)**

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**From:** Engel, Steven A. (OLC)  
**Sent:** Monday, April 8, 2019 12:36 PM  
**To:** Rabbitt, Brian (OAG); Gannon, Curtis E. (OLC)  
**Subject:** RE: 2019.04.11 SC Cover Memo DRAFT 4.7 - 4.8 eds  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.8.docx

Good edits. This version incorporates Brian's edits, plus a few more tweaks from me on the first two pages.

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**From:** Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>  
**Sent:** Monday, April 8, 2019 12:06 PM  
**To:** Engel, Steven A. (OLC) (b)(6) per OLC >; Gannon, Curtis E. (OLC) (b)(6) per OLC >  
**Subject:** 2019.04.11 SC Cover Memo DRAFT 4.7 - 4.8 eds

Some initial suggested edits.

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Wednesday, April 10, 2019 2:07 PM  
**To:** O'Callaghan, Edward C. (ODAG)  
**Cc:** Rabbitt, Brian (OAG)  
**Subject:** Draft letter  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.10 1130.docx

As discussed. Attached is the draft for your review/comment/improvements. Steve

**Steven A. Engel**  
Assistant Attorney General  
Office of Legal Counsel  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Office: (b)(6) per OLC  
[REDACTED]

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Wednesday, April 10, 2019 2:31 PM  
**To:** O'Callaghan, Edward C. (ODAG)  
**Cc:** Rabbitt, Brian (OAG)  
**Subject:** RE: Draft letter  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.10 1330.docx

Slightly updated, if you haven't started reading.

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**From:** Engel, Steven A. (OLC)  
**Sent:** Wednesday, April 10, 2019 2:07 PM  
**To:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Cc:** Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>  
**Subject:** Draft letter

Duplicative Material



[ecocallaghan@jmd.usdoj.gov](mailto:ecocallaghan@jmd.usdoj.gov)

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**From:** ecocallaghan@jmd.usdoj.gov  
**Sent:** Wednesday, April 10, 2019 2:34 PM  
**To:** Rosenstein, Rod (ODAG)  
**Subject:** Fwd: Draft letter  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.10 1330.docx; ATT00001.htm

Steve just let me know he has been working on this.

Edward C. O'Callaghan  
202-514-2105

Begin forwarded message:

**From:** "Engel, Steven A. (OLC)" <(b)(6) per OLC>  
**Date:** April 10, 2019 at 2:31:13 PM EDT  
**To:** "O'Callaghan, Edward C. (ODAG)" <[ecocallaghan@jmd.usdoj.gov](mailto:ecocallaghan@jmd.usdoj.gov)>  
**Cc:** "Rabbitt, Brian (OAG)" <[brrabbitt@jmd.usdoj.gov](mailto:brrabbitt@jmd.usdoj.gov)>  
**Subject:** RE: Draft letter

Duplicative Material



**Weinsheimer, Bradley (ODAG)**

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**From:** Weinsheimer, Bradley (ODAG)  
**Sent:** Wednesday, April 10, 2019 4:31 PM  
**To:** O'Callaghan, Edward C. (ODAG)  
**Subject:** RE: Draft letter  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.10 1330 gbw.docx

Here are some quick proposed edits on (b) (5)

Thanks, Brad.

---

**From:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Sent:** Wednesday, April 10, 2019 3:27 PM  
**To:** Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>  
**Subject:** FW: Draft letter

Duplicative Material

**Engel, Steven A. (OLC)**

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**From:** Engel, Steven A. (OLC)  
**Sent:** Thursday, April 11, 2019 12:16 PM  
**To:** Rabbitt, Brian (OAG); Moran, John (OAG)  
**Subject:** draft memo  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.11 (short).docx

Attached is a (b) (5) of the cover letter (b) (5)  
(b) (5)

**Steven A. Engel**  
Assistant Attorney General  
Office of Legal Counsel  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Office: (202) 514-9700  
[steven.a.engel@usdoj.gov](mailto:steven.a.engel@usdoj.gov)

**Engel, Steven A. (OLC)**

---

**From:** Engel, Steven A. (OLC)  
**Sent:** Thursday, April 11, 2019 12:22 PM  
**To:** O'Callaghan, Edward C. (ODAG)  
**Subject:** cover memo  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.11 (short).docx

(b) (5), attached is a (b) (5) of the letter.

**Steven A. Engel**  
Assistant Attorney General  
Office of Legal Counsel  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Office: (b)(6) per OLC  
[REDACTED]



**Moran, John (OAG)**

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**From:** Moran, John (OAG)  
**Sent:** Thursday, April 11, 2019 4:20 PM  
**To:** Rabbitt, Brian (OAG)  
**Subject:** RE: draft memo  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.11 (short) - OAG Draft 20190411.docx

Brian,

Here is a draft containing my suggested edits. (They are not in track changes but I can prepare a redline if helpful.) My main focus was (b) (5)

[REDACTED]

I have a hard copies that I can bring you as well.

John

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**From:** Engel, Steven A. (OLC) (b)(6) per OLC  
**Sent:** Thursday, April 11, 2019 12:16 PM  
**To:** Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Moran, John (OAG) <jomoran@jmd.usdoj.gov>  
**Subject:** draft memo

Duplicative Material

[REDACTED]

**Weinsheimer, Bradley (ODAG)**

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**From:** Weinsheimer, Bradley (ODAG)  
**Sent:** Thursday, April 11, 2019 8:20 PM  
**To:** O'Callaghan, Edward C. (ODAG); Rosenstein, Rod (ODAG)  
**Subject:** RE: cover memo  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.11 (short) gbw.docx

Suggested edits. Most significantly, (b) (5)

Thanks, Brad.

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**From:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Sent:** Thursday, April 11, 2019 5:54 PM  
**To:** Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>; Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>  
**Subject:** FW: cover memo

Duplicative Material



**O'Callaghan, Edward C. (ODAG)**

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**From:** O'Callaghan, Edward C. (ODAG)  
**Sent:** Friday, April 12, 2019 8:00 PM  
**To:** Engel, Steven A. (OLC); Rosenstein, Rod (ODAG); Rabbitt, Brian (OAG); Gannon, Curtis E. (OLC); Weinsheimer, Bradley (ODAG)  
**Subject:** RE: cover memo  
**Attachments:** 2019.04.15 SC Cover Memo DRAFT 4.11 (short)odag.docx

ODAG edits/suggestions attached. Brad was primary draftsman of (b) (5) .

Edward C. O'Callaghan  
202-514-2105

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**From:** Engel, Steven A. (OLC) (b)(6) per OLC  
**Sent:** Thursday, April 11, 2019 12:22 PM  
**To:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Subject:** cover memo

Duplicative Material



**Rabbitt, Brian (OAG)**

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**From:** Rabbitt, Brian (OAG)  
**Sent:** Sunday, April 14, 2019 12:19 PM  
**To:** (b)(6) - AG Barr  
**Subject:** FW: Draft letter  
**Attachments:** 2019.04.11 SC Cover Memo DRAFT 4.10 1330.docx

PRIVILEGED & CONFIDENTIAL  
DELIBERATIVE & PRE-DECISIONAL

Attached is a non-final, working draft document. This is internal, deliberative, and pre-decisional.

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**From:** Engel, Steven A. (OLC) (b)(6) per OLC  
**Sent:** Wednesday, April 10, 2019 2:31 PM  
**To:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Cc:** Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>  
**Subject:** RE: Draft letter

Duplicative Material

