

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Sixteenth Congress

January 22, 2019

The Honorable Matthew Whitaker
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Acting Attorney General Whitaker:

Thank you for agreeing to appear before the House Judiciary Committee on February 8, 2019. Your testimony is vital—not only to our general oversight of the Department of Justice, but also to our efforts to protect the work of Special Counsel Robert Mueller from undue influence or interference by the President of the United States.

To that end, when you appear before the Committee, I expect to ask you about certain communications you may have had with the White House. As I stated in my January 15 letter, we will expect you to provide direct answers to these questions. My hope is that you will answer these questions voluntarily so that the Committee can avoid resorting to compulsory process.

Because some of these questions may conceivably implicate executive privilege, I am providing them to you in advance. If President Trump plans to invoke executive privilege to prevent you from answering any of these questions, I ask that you notify the Committee in writing no later than 48 hours in advance of the hearing:

- President Trump fired former Attorney General Jeff Sessions November 7, 2018. On or before that date, did you have any communication with any White House official, including but not limited to President Trump, about the possibility of your appointment as Acting Attorney General? If so, when and with whom? Did any of those communications discuss the possibility of your recusal from oversight of the Special Counsel's investigation?
- You announced your decision not to recuse yourself from the Special Counsel's investigation on December 19, 2018. Did you consult with the White House about that decision, before or after it was announced? If so, with whom?

- My understanding is that you consulted with a four-person team of advisors for guidance on the question of your recusal. Who are these four individuals? Did any of them consult with the White House about your decision not to recuse yourself from the Special Counsel's investigation?
- Have you ever received a briefing on the status of the Special Counsel's investigation? If so, have you communicated any information you learned in that briefing to any White House official, including but not limited to President Trump, or any member of President Trump's private legal team?
- It has been reported that President Trump "lashed out" at you on at least two occasions: after Michael Cohen pleaded guilty on November 29, 2018, and after federal prosecutors identified President Trump as "Individual 1" in a court filing on December 8, 2018.¹
 - Did President Trump contact you after Michael Cohen pleaded guilty? What did he say? Did you take any action as a result of that conversation?
 - Did President Trump contact you after he was identified as "Individual 1" in documents related to the criminal sentencing of Michael Cohen? What did he say? Did you take any action as a result of that conversation?
 - In any of these conversations, did President Trump express concern, anger, or similar frustration with the actions of the Office of the U.S. Attorney for the Southern District of New York?
 - In any of these conversations, did President Trump discuss the possibility of firing or reassigning certain personnel who work for the Office of the U.S. Attorney for the Southern District of New York?
 - In any of these conversations, did the President discuss the recusal of Geoffrey Berman, the current U.S. Attorney for the Southern District of New York, from the Michael Cohen case and other matters related to the work of the Special Counsel?
- Former Attorney General Jeff Sessions tasked John Huber, the U.S. Attorney for the District of Utah, with reviewing a wide range of issues related to former Secretary of State Hillary Clinton. Have you ever received a briefing on the status of Mr. Huber's work? If so, have you communicated any information you learned in such a briefing to any White House official, including but not limited to President Trump, or any member of President Trump's private legal team?

¹ Laura Jarrett and Pamela Brown, *Trump lashed out at Whitaker after explosive Cohen revelations*, CNN, Dec. 21, 2018; see also *U.S. v. Michael Cohen*, 1:18-cr-850 (S.D.N.Y. Nov. 29, 2018).

- On January 17, 2018, *BuzzFeed News* reported that federal prosecutors have evidence, in the form of witness interviews and internal communications, suggesting that President Trump had directed Michael Cohen to lie to Congress. On January 18, the Special Counsel issued a rare statement describing some aspects of the *BuzzFeed* story as inaccurate. Did you have any communication with the White House about the *BuzzFeed* report or the decision of the Special Counsel's office to issue its subsequent statement? If so, with whom? What was discussed?


Again, I am providing these questions to you in advance because your responses may implicate communications with the President of the United States. Please take any steps that may be necessary for the White House to consider these communications and for the President to determine whether he will invoke executive privilege.

The Committee will not accept your declining to answer any question on the theory that the President may want to invoke his privileges in the future. The President should consider any matter involving assertion of privilege prior to your testimony. Short of a direct and appropriate invocation of executive privilege, I will expect you to answer these questions fully and to the best of your knowledge.

Similarly, I would view with considerable skepticism any effort to decline to answer on the basis that the inquiry is related to an ongoing criminal investigation. Although we both recognize the Department's longstanding practice of refusing to comment on open investigations—a practice that protects both the privacy of criminal suspects and the independence of career investigators—the questions that I have provided relate to whether there has been interference with the Special Counsel's work. They do not relate to the underlying substance of the investigation. Indeed, these questions and the Department's policy align. I intend to ask you about these conversations with the White House because I believe that the independence of the Department has been placed at risk.

Thank you, and I look forward to your testimony.

Sincerely,



Jerrold Nadler
Chairman
House Committee on the Judiciary

cc: The Hon. Doug Collins
Ranking Member, House Committee on the Judiciary