



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 21, 2020

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

I write in response to your August 28, 2020 letter to Assistant Attorney General Eric Dreiband and your September 14, 2020 letters to Bureau of Prisons Director Michael Carvajal and U.S. Marshals Service Director Donald Washington.¹

Your letters request that Assistant Attorney General Dreiband testify at a hearing before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties on September 24 regarding “a broad range of topics regarding current policies and actions of the Civil Rights Division.” You have also requested that Director Carvajal and Director Washington appear before the Subcommittee on Crime, Terrorism, and Homeland Security for an oversight hearing regarding the Bureau of Prisons and the U.S. Marshals Service on October 1, 2020.

The Department of Justice (Department) recognizes that the Committee has a legitimate interest in oversight of the Department, including the matters identified in your letters. That is why the Attorney General recently appeared in person to testify about these subjects and others at the Committee’s oversight hearing on July 28, 2020. Prior to the Attorney General’s testimony, the Committee advised that the Members would seek to ask him about the policies of the Civil Rights Division with respect to police misconduct, the election, and voting rights. *See, e.g., Oversight of the Department of Justice: Political Interference and Threats to Prosecutorial Independence, Hearing Before the H. Comm. on the Judiciary, 116th Cong. (June 24, 2020)*. In addition, the Committee expressed interest in information related to the Bureau of Prisons and Marshals Service, including the components’ response to the COVID-19 pandemic as well as matters of civil unrest. *See, e.g., Letter from Jerrold Nadler, Chairman, H. Comm. on the Judiciary, and Rep. Karen Bass, to Michael Carvajal, Dir., U.S. Bureau of Prisons (June 11, 2020); Letter from Jerrold Nadler, Chairman, H. Comm. on the Judiciary, and Rep. Karen Bass, to Donald Washington, Dir., U.S. Marshals Service (May 15, 2020)*. The Attorney General

¹ We anticipate responding to your February 28, 2020 and August 10, 2020 letters to the Attorney General in the upcoming weeks.

therefore appeared prepared to discuss all of these subjects, and he in fact addressed some of them when asked by the Members.

Unfortunately, when given the opportunity to obtain information from the head of the Department of Justice about precisely these matters, many Committee Members chose instead to use their allotted time to air grievances. Rather than attempt to obtain information from the Department that would assist the Committee in recommending legislation to the House, many Members of the majority devoted their time entirely towards scolding and insulting the Attorney General. These Members refused to allow the Attorney General to respond to their accusations or to answer questions asked for rhetorical effect. As the *New York Times* reported, “Democrat after Democrat posed questions to Mr. Barr only to cut him off when he tried to reply, substituting their own replies for his.” See *Barr Testimony: Highlights of Combative Hearings on Protests, Stone Case and More*, N.Y. Times (July 28, 2020). In what can only be viewed as a coordinated effort to muzzle the Attorney General, the Members repeatedly invoked the phrase, “reclaiming my time,” which they employed more than 30 times when the Attorney General tried to respond. All told, when the Attorney General tried to address the Committee’s questions, he was interrupted and silenced in excess of 70 times. Some Members were quite candid that they had no interest in actually hearing from the Attorney General. One Member interrupted him and admitted, “Well I don’t want you to tell your story.” *Oversight of the Department of Justice, Hearing Before the H. Comm. on the Judiciary*, 116th Cong. (July 28, 2020). Another advised, “You will have a chance to comment after your testimony is done here today.” *Id.* Despite the Attorney General appearing in person and taking questions from all Members who were present, he was denied the most basic opportunities to respond.

As the Supreme Court recently reiterated, the purpose of a hearing by the House is to obtain the information necessary to legislate “wisely and effectively,” and the questioning is required to serve a legitimate legislative purpose. See *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019 (2020). Yet the House’s so-called oversight “hearing” of the Attorney General did precious little to advance any legitimate interest since the Attorney General was repeatedly denied the opportunity to provide information to the Committee. We very much regret that the Committee did not elect to engage in a meaningful, good-faith effort to obtain information and views from the Attorney General while he was present and prepared to testify. Having squandered its opportunity to conduct a meaningful oversight hearing with the Attorney General, it remains unclear how further public spectacles with other Department officials would now—a mere 14 legislative days since the Attorney General’s hearing—advance the Committee’s legitimate oversight efforts.

In short, the Attorney General recently appeared before the Committee and was available to address the topics that are to be covered by the September 24 and October 1 hearings. Although the Department is not in a position to provide witnesses for these hearings at this time, should the Committee nonetheless continue to have particular interest in obtaining information from the Department, and should the Committee commit to doing so in an appropriate and productive manner, the Department would be happy to work with you regarding the scheduling of additional oversight hearings in the future.

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Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Boyd", with a large, sweeping flourish extending to the right.

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Jim Jordan
Ranking Member