

**Congress of the United States**  
**Washington, DC 20515**

April 20, 2020

Jeffrey R. Ragsdale  
Acting Director and Chief Counsel  
Office of Professional Responsibility  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

The Honorable Michael E. Horowitz  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Mr. Ragsdale and Mr. Horowitz:

We write to request that you investigate whether recent public statements by Attorney General William Barr regarding former Inspector General of the Intelligence Community (ICIG) Michael Atkinson violated applicable Department of Justice (DOJ) policies and rules of professional conduct.

In a televised interview on April 9, 2020, Mr. Barr blatantly mischaracterized Mr. Atkinson's conduct and DOJ's own actions relating to the complaint filed last summer by an Intelligence Community whistleblower.<sup>1</sup> The complaint detailed President Trump's efforts to coerce Ukraine to announce a politically-motivated investigation of his rival in the 2020 presidential election. Mr. Barr's remarks followed the President's admission on April 4 that he fired Mr. Atkinson in retaliation for Mr. Atkinson's handling—in accordance with the law—of the whistleblower complaint.<sup>2</sup> The House of Representatives' investigation independently confirmed the whistleblower's account of the President's abuse of power, for which the President was subsequently impeached. Mr. Barr's misleading remarks appear to have been aimed at justifying the President's retaliatory decision to fire Mr. Atkinson.

As Senators Diane Feinstein and Mark Warner underscored in their April 17 letter to you, Mr. Atkinson neither “ignored” DOJ guidance, nor acted contrary to his legal and professional

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<sup>1</sup> Interview with Attorney General William Barr, Fox News, April 9, 2020 (“I think the president did the right thing in removing Atkinson. From the vantage point of the Department of Justice, he had interpreted his statute, which is a fairly narrow statute, that gave him jurisdiction over wrongdoing by Intelligence people, and tried to turn it in to a commission to explore anything in the government and immediately report to Congress without letting the Executive Branch look at it and determine whether there was any problem. He was told this in a letter from the Department of Justice, and he is obliged to follow the interpretation of the Department of Justice, and he ignored it. So I think the president was correct in firing him.”).

<sup>2</sup> The White House, *Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing*, April 4, 2020 (Remarks of President Trump) (“I thought he [Mr. Atkinson] did a terrible job. Absolutely terrible. He took a whistleblower report, which turned out to be a fake report — it was fake. It was totally wrong. It was about my conversation with the President of Ukraine. He took a fake report and he brought it to Congress, with an emergency. Okay? Not a big Trump fan — that, I can tell you.”), available at: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-19>.

obligations in handling the whistleblower complaint, as Mr. Barr alleged.<sup>3</sup> To the contrary, Mr. Atkinson faithfully discharged his legal obligations as an independent and impartial Inspector General in accordance with federal law.

Then-acting Director of National Intelligence (DNI) Joseph Maguire affirmed this in his sworn testimony before the House Intelligence Committee on September 26, 2019. Mr. Maguire testified that Mr. Atkinson handled the Ukraine whistleblower complaint “by the book” and in strict accordance with statutory requirements.<sup>4</sup> Mr. Atkinson never transmitted the whistleblower complaint to the House or Senate Intelligence Committees, nor did he reveal its contents to Congress. Instead, Mr. Atkinson properly alerted the congressional intelligence committees to the existence of the whistleblower complaint after he was unable to resolve a difference with acting DNI Maguire about whether the complaint should be transmitted to Congress.<sup>5</sup> Mr. Maguire testified that he supported Mr. Atkinson’s decision to alert the congressional intelligence committees. In short, President Trump fired Mr. Atkinson simply for doing his job and following the law.

In maligning Mr. Atkinson and falsely portraying him as insubordinate, Mr. Barr misrepresented DOJ’s legal opinion concerning the whistleblower complaint. Mr. Barr’s remarks also ignored the impropriety of DOJ’s coordination with the White House to prevent a whistleblower complaint concerning presidential misconduct from reaching Congress. In order to keep Congress in the dark about the existence of the complaint, the White House and DOJ collaborated to develop meritless justifications designed to circumvent the clear statutory requirement that all such complaints “shall” be transmitted to the congressional intelligence committees.<sup>6</sup>

Specifically, DOJ’s Office of Legal Counsel (OLC) issued a secret opinion that absurdly concluded that the statute—contrary to its plain text—did not require acting DNI Maguire to

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<sup>3</sup> Interview with Attorney General William Barr, Fox News, April 9, 2020. *See also* Letter from Senators Dianne Feinstein and Mark R. Warner to Jeffrey R. Ragsdale, Office of Professional Responsibility, and Michael E. Horowitz, Inspector General, Department of Justice, April 17, 2020, *available at*: [https://www.feinstein.senate.gov/public/\\_cache/files/7/4/74cc2af5-a011-41fe-b8a7-af3fa9a1f97c/97EA40385B91689933EAC2099710A202.2020.04.17-df-mw-letter-to-opr-oig-re-ag-barr-misleading-statements-final-pdf-.docx.pdf](https://www.feinstein.senate.gov/public/_cache/files/7/4/74cc2af5-a011-41fe-b8a7-af3fa9a1f97c/97EA40385B91689933EAC2099710A202.2020.04.17-df-mw-letter-to-opr-oig-re-ag-barr-misleading-statements-final-pdf-.docx.pdf).

<sup>4</sup> Testimony of Acting Director of National Intelligence Joseph Maguire before the House Permanent Select Committee on Intelligence, September 26, 2019, *available at*: <https://docs.house.gov/meetings/IG/IG00/20190926/110027/HHRG-116-IG00-Transcript-20190926.pdf>.

<sup>5</sup> *See* 50 U.S.C. § 3033(k)(3)(A)(i) (“In the event that—the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General; [...] the Inspector General *shall immediately* notify, and submit a report to, the congressional intelligence committees on such matter.”) (emphasis added).

<sup>6</sup> 50 U.S.C. § 3033 (k)(5)(C) (“Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.”).

forward the whistleblower complaint to Congress.<sup>7</sup> For its part, the White House asserted that the complaint involved information subject to executive privilege that acting DNI Maguire was not authorized to release to Congress—even though executive privilege cannot be invoked to shield misconduct and was, in fact, never invoked by the President.<sup>8</sup>

Contrary to Mr. Barr’s false assertion that Mr. Atkinson “ignored” DOJ’s legal guidance, Mr. Atkinson explicitly acknowledged being bound by OLC’s opinion, while strongly disagreeing with it. In a non-public letter to OLC, Mr. Atkinson highlighted the contorted reasoning and troubling national security and oversight implications of OLC’s opinion that “election interference by foreign actions ... would not involve an activity or program of the intelligence community under the DNI’s supervision.”<sup>9</sup> Mr. Atkinson correctly observed that the DNI is expressly charged by statute and executive orders—including one issued by President Trump himself—to lead the Intelligence Community’s effort to protect the nation from foreign election interference. After OLC’s opinion and Mr. Atkinson’s objections were made public, the Council of Inspectors General on Integrity and Efficiency (CIGIE) sent a letter to OLC strongly backing Mr. Atkinson’s position.<sup>10</sup>

Notwithstanding Mr. Atkinson’s meritorious objections, the coordinated efforts by the White House and DOJ succeeded—temporarily—in preventing Congress from receiving the whistleblower complaint. Only after immense public pressure and a subpoena issued by the House Intelligence Committee did acting DNI Maguire produce the complaint to the congressional intelligence committees in late September 2019. The role of Attorney General Barr and other senior DOJ officials, in coordination with the White House, in attempting to prevent the whistleblower complaint from reaching Congress—as required by law—warrants your attention.

Moreover, Mr. Barr’s recent remarks are part of a disturbing pattern of misrepresenting facts and falsely alleging misconduct by other government officials in order to defend the

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<sup>7</sup> Office of Legal Counsel, Department of Justice, “Slip Opinion: ‘Urgent Concern’ Determination by the Inspector General of the Intelligence Community,” September 3, 2020, *available at*: <https://www.justice.gov/olc/opinion/file/1205711/download>.

<sup>8</sup> Testimony of Acting Director of National Intelligence Joseph Maguire before the House Permanent Select Committee on Intelligence, September 26, 2019, *available at*: <https://docs.house.gov/meetings/IG/IG00/20190926/110027/HHRG-116-IG00-Transcript-20190926.pdf>.

<sup>9</sup> Letter from Michael Atkinson, Inspector General of the Intelligence Community, to Steven Engel, Assistant Attorney General, Office of Legal Counsel, Department of Justice, September 17, 2019, *available at*: [https://www.ignet.gov/sites/default/files/files/ICIG\\_letter\\_to\\_OLC.pdf](https://www.ignet.gov/sites/default/files/files/ICIG_letter_to_OLC.pdf).

<sup>10</sup> See Letter from the Council of Inspectors General on Integrity and Efficiency to Steven A. Engel, Assistant Attorney General, Office of Legal Counsel, Department of Justice, October 22, 2019, *available at*: [https://www.ignet.gov/sites/default/files/files/CIGIE\\_Letter\\_to\\_OLC\\_Whistleblower\\_Disclosure.pdf](https://www.ignet.gov/sites/default/files/files/CIGIE_Letter_to_OLC_Whistleblower_Disclosure.pdf). (“This letter from the Council of the Inspectors General on Integrity and Efficiency, on behalf of the undersigned federal Inspectors General (IG), expresses our support for the position advanced by the ICIG and our concern that the OLC opinion, if not withdrawn or modified, could seriously undermine the critical role whistleblowers play in coming forward to report waste, fraud, abuse, and misconduct across the federal government. Further, as addressed in detail below, OLC’s interpretation regarding the ICWPA procedure in question, which mirrors the procedure that Congress included in Section 5(d) of the Inspector General Act of 1978 (IG Act), has the potential to undermine IG independence across the federal government.”)

President's own misconduct. In the year since Special Counsel Robert Mueller concluded his investigation of Russian interference in the 2016 presidential election, Mr. Barr has persistently sought to mislead the American public in an effort to undermine the Special Counsel's investigation and findings, as well as those of the Department's own Office of Inspector General.<sup>11</sup> Indeed, a federal judge recently examined Mr. Barr's "lack of candor" and concluded that Mr. Barr "distorted the findings in the Mueller Report," which "cause[d] the Court to seriously question whether Attorney General Barr made a calculated attempt to influence public discourse about the Mueller Report in favor of President Trump."<sup>12</sup>

Public confidence in our system of justice depends on the integrity, fairness, and impartiality of DOJ's leadership. It is, therefore, imperative that the Attorney General be held to the same high standard expected of all Department personnel, particularly in matters involving the President's own interests. We appreciate your prompt attention to this request.

Sincerely,



Adam B. Schiff  
Chairman

Permanent Select Committee on Intelligence



Jerrold Nadler  
Chairman

Committee on the Judiciary

cc: The Honorable Devin Nunes, Ranking Member  
Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member  
Committee on the Judiciary

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<sup>11</sup> For example, in the same April 9 interview, Mr. Barr claimed that the Federal Bureau of Investigation (FBI) initiated its 2016 investigation into the Trump campaign's links to Russia "without any basis," despite the Special Counsel's Office's finding that "the Russian government interfered in the 2016 presidential election in sweeping and systematic fashion" and the Office of Inspector General's exhaustive review, which found that the FBI in fact had an authorized purpose and legitimate predicate for the investigation. *See* Department of Justice, Special Counsel's Office, *Report on the Investigation into Russian Interference in the 2016 Presidential Election*, March 2019, available at: <https://www.justice.gov/storage/report.pdf>; Department of Justice, Office of the Inspector General, *Review of Four FISA Applications and Other Aspects of the Crossfire Hurricane Investigation*, December 2019, available at: <https://oig.justice.gov/reports/2019/o20012.pdf>. In a grave departure from DOJ practice and policy, Mr. Barr has also prejudged a separate DOJ probe he initiated by insinuating criminal wrongdoing by officials involved in identifying and defending the country against Russian interference in the 2016 election. *See* Interview with Attorney General William Barr, Fox News, April 9, 2020.

<sup>12</sup> *Elec. Privacy Info. Ctr. v. United States Dep't of Justice*, No. 19 Civ. 810 (RBW), 2020 WL 1060633 (D.D.C. Mar. 5, 2020).