

November 14, 2018

Hon. Matthew G. Whitaker
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Acting Attorney General Whitaker:

Democracy 21 calls on you to recuse yourself from any involvement in the investigation being conducted by Special Counsel Robert Mueller into Russian interference in the 2016 election.

You have made a series of public statements that demonstrate to the American people your bias and hostility against the Mueller investigation. These statements make clear that you cannot make publicly credible decisions as the person responsible for overseeing this investigation.

With regard to the firing of former FBI Director James Comey, you have publicly said that “there is no criminal obstruction of justice charge to be had here,”¹ and that the Comey firing would not “raise [sic] to the level of obstruction.”²

You have also publicly said, regarding the June 2016 Trump Tower meeting between Trump campaign officials and Russian agents, “you would always take the meeting”³ and that the meeting was not “enough to suggest there’s some conspiracy ... to violate either election laws or espionage laws.”⁴

According to published reports, one focus of the ongoing Mueller investigation is whether the Comey firing violated, or is part of a pattern of violating, obstruction of justice laws.

Another focus of the ongoing investigation is whether the Trump Tower meeting involved any violations of law, including of the election laws, by Trump campaign officials.

¹ Mornings on the Mall, Former U.S. Attorney MATTHEW WHITAKER gives us an overview on Comey’s testimony, WMAL, June 9, 2017, available at <http://www.wmal.com/2017/06/09/listen-former-u-s-attorney-matthew-whitaker-gives-us-an-overview-on-comeys-testimony/>.

² CNN Tonight, Transcript, CNN, June 13, 2017, available at <http://transcripts.cnn.com/TRANSCRIPTS/1706/13/cnnt.02.html>.

³ CNN Newsroom, Transcript, CNN, July 10, 2017, available at <http://transcripts.cnn.com/TRANSCRIPTS/1707/10/cnr.08.html>.

⁴ Anderson Cooper 360 Degrees, Transcript, CNN, July 10, 2017, available at <http://transcripts.cnn.com/TRANSCRIPTS/1707/10/acd.02.html>.

Your previous public statements demonstrate you have prejudged both of these matters and that you have already concluded, in both instances, that there were no violations of law. You have done so without knowing the findings of the Mueller investigation regarding these matters.

Your prejudgment of these matters makes you unsuitable to fairly and credibly oversee Special Counsel Mueller while he investigates what happened in these cases and decides whether there have been violations of law.

Compounding the problem of your past statements prejudging two central inquiries in the investigation are other public statements you have made that demonstrate your hostility to the Mueller investigation as a whole.

You have identified with the position that the Mueller investigation is a “lynch mob” by retweeting a *Philadelphia Inquirer* article titled “Note to Trump’s lawyer: Do not cooperate with Mueller lynch mob.” In retweeting the article, you added “Worth a read.”⁵

You have denied there was any evidence that Russia intervened in the 2016 election, *five months after* the intelligence community issued a report concluding that Russia president Vladimir Putin had ordered a campaign to influence the 2016 presidential campaign.⁶

You have publicly explained how the person overseeing the Mueller investigation can cripple the investigation without having to fire Mr. Mueller, by saying that the attorney general can “just [reduce] his budget so low that his investigation grinds to almost a halt.”⁷

These statements establish your hostility and bias regarding the Mueller investigation and establishes a dangerous conflict of interest that makes you unfit to oversee the investigation. There is no rehabilitation for the bias you have publicly shown, and no way for you to establish that you can oversee this investigation in a fair and credible way now.

This is not just a matter of your own personal credibility, but it also is a matter of the credibility of the Justice Department that you currently lead as Acting Attorney General. The Justice Department’s mission requires the Department to enforce the law in a neutral, unbiased, and non-partisan fashion.

⁵ Spinelli, Dan. *Mother Jones*, September 24, 2018, available at <https://www.motherjones.com/politics/2018/09/matthew-whitaker-donald-trump-jeff-sessions-witch-hunt-mueller-russia/>

⁶ WHO Radio with Jeff Angelo, interview with Former U.S. Attorney Matthew Whitaker, May 30, 2017, available at <https://www.youtube.com/watch?v=auF4WKa-URg>.

⁷ CNN Tonight, Transcript, CNN, July 26, 2017, available at <http://transcripts.cnn.com/TRANSCRIPTS/1707/26/cnnt.01.html>.

As the Department's website states:

Thomas Jefferson wrote, "The most sacred of the duties of government [is] to do equal and impartial justice to all its citizens." This sacred duty remains the guiding principle for the women and men of the U.S. Department of Justice.⁸

If you continue to lead the Mueller investigation, given your clear personal bias and hostility to the investigation, you will taint the entire Department and undermine its core mission "to do equal and impartial justice."

You will be seen as no more than an agent of the President and as someone who was put into your role by the President for the purpose of serving his interests, and not the interests of the Justice Department and the American people. If you take actions to undermine the investigation, you will be seen as President Trump's agent acting to cripple or kill a criminal investigation that directly involves the President and his family.

As Acting Attorney General, your allegiance must be to the Department of Justice and to the American people, and not to the President, his family or his close associates.

Russia's interference in the 2016 presidential election was a direct and purposeful attack on our democracy and on our political system. The American people are entitled to get to the bottom of what happened and to know who was responsible and whether they broke the law. This will not be possible to do in a credible manner as long as you are responsible for overseeing the investigation.

Democracy 21 calls on you to immediately recuse yourself from overseeing the Mueller investigation.

Sincerely,



Fred Wertheimer
President

Copy to:
Assistant Attorney General Lee J. Lofthus

⁸ <https://www.justice.gov/about>