



February 27, 2020

Jeffrey R. Ragsdale  
Acting Director  
Office of Professional Responsibility  
U.S. Department of Justice  
Suite 3266  
950 Pennsylvania Avenue N.W.  
Washington, DC 20530

Dear Acting Director Ragsdale:

Democracy 21 is filing this complaint to again request the Office of Professional Responsibility to investigate and take appropriate action concerning the failures of Attorney General William P. Barr to “ensure fair and impartial administration of justice for all Americans.”

This is the fifth complaint that Democracy 21 has filed at the Justice Department in less than a year against Attorney General Barr, including four with your Office and one with the Inspector General. Previous complaints were filed on April 15, 2019, May 7, 2019, October 1, 2019 and January 17, 2020.

Barr’s transgressions have included repeated actions demonstrating clear bias on behalf of President Trump’s personal political interests, and failures by the Attorney General to comply with Department of Justice norms, standards of conduct and regulations.

We write to you because the Office of Professional Responsibility that you head is the only place in the Justice Department that has the institutional authority and the responsibility to address the problems with the professional conduct of Attorney General Barr.

This complaint challenges Barr’s unprecedented intervention into the Department’s handling of the sentencing process for Trump crony and political adviser Roger J. Stone, Jr. This intervention led more than 2,600 former federal prosecutors and Justice Department officials, who had served in both Republican and Democratic administrations, to call for the resignation of Attorney General Barr.<sup>1</sup>

Collectively, this complaint and our four previous complaints have demonstrated Attorney General Barr’s clear and consistent pattern of bias in favor of protecting the personal political

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<sup>1</sup> S. Collinson, “Justice Department storm intensifies with new attacks on Barr’s credibility,” *CNN* (Feb. 18, 2020).

interests of President Trump in utter disregard of Barr's overriding obligation to ensure the "impartial administration of justice on behalf of all Americans."<sup>2</sup>

Attorney General Barr has seriously compromised the integrity and credibility of the Justice Department as an independent, nonpartisan guardian of the rights and protections of all Americans. Barr has failed to meet the standards of professional responsibility that your Office was created to ensure and that are applicable to every lawyer in the Justice Department.

It is imperative that the Office of Professional Responsibility not stand silent. The country needs to hear from your Office that impartial administration of justice and responsible professional conduct remain the Justice Department standards for all DOJ lawyers---starting with, and most importantly, the Attorney General. Your Office is empowered by DOJ rules to hold the Attorney General accountable for his actions. It is incumbent that your Office act at this critical time for the American people and the Justice Department.

Attorney General Barr's intervention into the Department's handling of the sentencing process for Trump crony Roger Stone is unprecedented. The facts of this matter have been widely reported in the press. Stone was convicted on seven felony accounts of obstruction of Congress and witness tampering. Career prosecutors handling the case recommended to the court a seven-to-nine-year sentence for Stone, in accordance with federal sentencing guidelines and normal Department procedures.

Then, according to an account in *The New York Times*, "After prosecutors recommended on Monday a seven-to-nine-year sentence for Mr. Stone on seven felony convictions, the president criticized the move. Senior law enforcement officials overruled the career prosecutors the next day, immediately prompting accusations of political interference."<sup>3</sup> In response to the intervention by "senior" Department officials, according to *The Washington Post*:

All four career prosecutors handling the case against Roger Stone withdrew from the legal proceedings Tuesday—and one quit his job entirely—after the Justice Department signaled it planned to undercut their sentencing recommendation for President Trump's longtime friend and confidant.

The sudden and dramatic moves came after prosecutors and their superiors had argued for days over the appropriate penalty for Stone, and exposed what some career Justice Department employees say is a continuing pattern of the historically independent law enforcement institution being bent to Trump's political will.<sup>4</sup>

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<sup>2</sup> <https://www.justice.gov/jmd/organization-mission-and-functions-manual-overview>

<sup>3</sup> C. Savage and A. Goldman, "William Barr Moves to Take the Reins of Politically Charged Cases," *The New York Times* (Feb. 14, 2020).

<sup>4</sup> M. Zaposky, D. Barrett, A. Marimow and S. Hsu, "Prosecutors quit amid escalating Justice Dept. fight over Roger Stone's prison term," *The Washington Post* (Feb. 11, 2020).

The Department withdrew the original sentencing memorandum and filed a revised version stating that the original recommendation “could be considered excessive and unwarranted under the circumstances.”<sup>5</sup> Ultimately, Stone received a sentence from the court of 40 months in prison. The fact that this was lower than the sentence recommended by the prosecuting attorneys in accordance with Justice Department policy is irrelevant to the favoritism for Stone that occurred.

As noted above, the extraordinary intervention by the Department was accompanied by a series of tweets and other public statements by President Trump that sharply criticized the original sentencing recommendation. Trump called the initial sentencing recommendation “an insult to our country,” “a horrible aberration,” “a disgrace” and “ridiculous.”<sup>6</sup> After the Department withdrew and revised its original sentencing recommendation, Trump tweeted, “Congratulations to Attorney General Bill Barr for taking charge of a case that was totally out of control and perhaps should not have even been brought.”<sup>7</sup>

The open letter from more than 2,600 former Department officials and prosecutors “strongly condemns President Trump’s and Attorney General Barr’s interference in the fair administration of justice.” The letter stated, “A person should not be given special treatment in a criminal prosecution because they are a close political ally of the President.”<sup>8</sup>

In an [article](#) published in Just Security, Stuart Gerson addressed Barr’s intervention in this matter to obtain a lower sentencing recommendation for Roger Stone. Gerson served with William Barr in the Justice Department in the George H.W. Bush administration and served briefly as Acting Attorney General in the Clinton administration.<sup>9</sup> He wrote:

Whatever the Attorney General was thinking, his low-ball recommendation gives more of a whiff of favoritism than it does of principle. Indeed, one cannot recall any similar leniency being ordered in any other case, particularly in the host of cases that the government brings against members of minority groups or those who are economically disadvantaged. In fact, the Stone prosecution team did no more than to follow the Department policy of the so-called “Sessions Memo” that required them to seek the most severe sentence that the facts of the case allowed. In short, it looks to many present and former federal prosecutors that undue leniency was being afforded to a privileged, white friend of the president, who himself lent credence to the charge of favoritism by his

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> E. Sullivan and M. Shear, “Trump Praises Barr for Rejecting Punishment Recommended for Stone,” *The New York Times* (Feb. 12, 2020).

<sup>8</sup> “DOJ Alumni Statement on the Events Surrounding the Sentencing of Roger Stone,” *Medium* (Feb. 16, 2020).

<sup>9</sup> S. Gerson, “Let the Rule of Law Rule Law Enforcement: Reflections on the Current Attorney General’s Tenure,” *Just Security* (Feb. 25, 2020).

relentless social media criticism of the case, the prosecutors, and even the presiding judge.

Attorney General Barr recently has exercised his authority to protect Trump's personal political interests in other ways as well. He has "assigned an outside prosecutor to scrutinize the criminal case against President Trump's former national security adviser Michael T. Flynn....," a review that the *Times* said "is highly unusual and could trigger more accusations of political interference by top Justice Department officials into the work of career prosecutors."<sup>10</sup>

This move by Barr again followed public statements by Trump saying that Department prosecutors "ought to be ashamed of themselves" about "what they've done to General Flynn..." and also saying that "what they did to General Flynn is very unfair, in my opinion."<sup>11</sup>

The *Post* noted the parallel in Barr's handling of the Stone and Flynn cases: "In each case, Trump criticized the department's treatment of a Trump ally; in both cases, Barr has inserted himself in an unorthodox manner that invites accusations of politicization."<sup>12</sup>

Barr also is continuing to oversee an ongoing investigation he assigned to U.S. Attorney John H. Durham into the federal government's response to Russian election interference in the 2016 campaign. This investigation includes a review of the activities of U.S. intelligence agencies that found Russia secretly tried to help Trump win in 2016, a finding that Trump has repeatedly criticized. According to the *Times*:

Mr. Durham appears to be pursuing a theory that the C.I.A., under its former director John O. Brennan, had a preconceived notion about Russia or was trying to get a particular result—and was nefariously trying to keep other agencies from seeing the full picture lest they interfere with that goal, the people said.<sup>13</sup>

The *Times* added, "Mr. Durham's questioning is certain to add to accusations that Mr. Trump is using the Justice Department to go after his perceived enemies, like Mr. Brennan, who has been an outspoken critic of the president."<sup>14</sup>

The Barr-led investigation into the origins of the Russia investigation continues even though the Justice Department's independent, nonpartisan Inspector General found in December 2019 that

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<sup>10</sup> C. Savage, A. Goldman, M. Apuzzo, "Barr Installs Outside Prosecutor to Review Case Against Michael Flynn, Ex-Trump Adviser," *The New York Times* (Feb. 14, 2020).

<sup>11</sup> A. Blake, "Another case Trump meddled in. Another unorthodox intervention from Barr," *The Washington Post* (Feb. 15, 2020).

<sup>12</sup> *Id.*

<sup>13</sup> C. Savage, A. Goldman and J. Barnes, "Justice Dept. Is Investigating C.I.A. Resistance to Sharing Russia Secrets," *The New York Times* (Feb. 13, 2020).

<sup>14</sup> *Id.*

the Department had sufficient basis to initiate the 2016 investigation and that FBI and Department officials had acted without political bias in conducting the investigation.

The IG found with regard to the opening of the investigation that “under the AG Guidelines and the [FBI Guidelines], the FBI had an authorized purpose when it opened Crossfire Hurricane to obtain information about, or protect against, a national security threat or federal crime, even though the investigation also had the potential to impact constitutionally protected activity.” IG Rpt. at iii.<sup>15</sup>

Attorney General Barr immediately attacked the IG report by criticizing and challenging the Inspector General’s conclusion that there was a legitimate basis to open the 2016 investigation.

Attorney General Barr said that “the FBI launched an intrusive investigation of a U.S. presidential campaign on the thinnest of suspicions that, in my view, were insufficient to justify the steps taken.”<sup>16</sup> In a separate statement, Durham challenged the Inspector General report, stating that he “advised the Inspector General that we do not agree with some of the report’s conclusions as to predication and how the FBI case was opened.”<sup>17</sup>

Barr also went further, alleging without offering any proof that Obama administration officials had spied on the president’s associates and, in the process, jeopardized civil liberties.

The broad picture painted by all of these episodes is that Attorney General Barr continues to enable the weaponization of the Justice Department to advance the personal political interests of President Trump. This is directly contrary to Barr’s principal responsibility as Attorney General to ensure fair and impartial justice and to act in the best interests of all Americans, not to serve the personal political interests of the President.

Since Watergate, the norms of the Justice Department have been clear: the Attorney General needs to protect the independence of the Department from interference by the President and the White House, particularly in matters relating to the investigative and prosecutorial functions of the Department, and needs to insulate career prosecutors from political pressure.

Barr’s interference with line prosecutors in the sentencing of Roger Stone is a clear example of improperly promoting President Trump’s personal political interests at the expense of Justice Department norms that have existed for more than four decades.

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<sup>15</sup> DOJ Office of the Inspector General, “Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation,” Oversight and Review Division 20-012 (December 2019 (Revised)) (<https://oig.justice.gov/reports/2019/o20012.pdf>)

<sup>16</sup> “Statement by Attorney General William P. Barr on the Inspector General’s Report of the Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation,” Department of Justice (Dec. 9, 2019).

<sup>17</sup> “Statement of U.S. Attorney John H. Durham,” Department of Justice (Dec. 9, 2019).

Barr's decision to initiate a review of the handling of the case of Michael Flynn by Justice Department lawyers is another example of bending justice to the personal political interests of Trump. And so is Barr's decision to initiate the Durham investigation into those who investigated the Russian interference in the 2016 election and reached conclusions that Trump attacked as a witch hunt and "Fake News." Barr's attacks on the Inspector General finding that the 2016 Russia investigation was properly initiated are yet another example of Barr serving Trump's personal political interests at the expense of the institutional integrity and credibility of the Justice Department.

In these cases, Barr has taken actions which respond to and accommodate Trump's clear desire to use the Justice Department to protect his friends and punish his enemies.

The standards of conduct, norms of behavior and rules of the Justice Department are designed to safeguard the integrity and credibility of the Department, and to protect it from political interference. They have been seriously violated by Attorney General Barr in his repeated actions to protect President Trump and advance Trump's personal political interests.

As head of the Office of Professional Responsibility, it is your responsibility to hold Attorney General Barr accountable for his unprofessional and damaging conduct. It is your responsibility to protect the integrity and credibility of the Department and its employees, even when the matter involves the Attorney General.

Democracy 21 calls on you to investigate the unprofessional conduct and inappropriate actions by Attorney General Barr in the matters described in this complaint and the previous complaints filed by Democracy 21. We urge you to take appropriate action concerning Attorney General Barr to ensure that the accelerating deterioration of the independence, integrity and credibility of the Justice Department is stopped before irreparable damage is done to the Department.

Sincerely,



Fred Wertheimer  
President

Copy to:

Michael Horowitz, Inspector General  
Cynthia K. Shaw, Director, Departmental Ethics Office