



July 9, 2020

Michael Horowitz
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Robin C. Ashton
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Office of Professional Responsibility
U.S. Department of Justice Suite 3529
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Re: Democracy 21 complaint requesting investigation of Attorney General Barr's actions in removing U.S. Attorney for the Southern District of New York

Dear Inspector General Horowitz and Counsel Ashton:

Democracy 21 requests that your offices conduct an investigation regarding the circumstances surrounding Attorney General William Barr's recent actions to remove Geoffrey S. Berman as the U.S. Attorney for the Southern District of New York.

The abnormal manner in which the Attorney General handled this matter raises serious concerns about whether he has complied with Justice Department norms, standards and practices. This includes whether Attorney General Barr's actions in removing Mr. Berman were taken to improperly suppress investigations reportedly underway in the Southern District involving President Trump's associates and interests.

The facts of Mr. Berman's removal have been widely reported in the press. On the evening of Friday, June 19, 2020, Attorney General Barr [issued](#) a press release stating that U.S. Attorney Berman had resigned his position and would be temporarily replaced by Craig Carpenito, the current U.S. Attorney for the District of New Jersey, who would serve as the Acting U.S. Attorney for the Southern District of New York until the Senate confirmation of a successor.

Mr. Barr also announced that President Trump intended to nominate Jay Clayton, the chair of the Securities and Exchange Commission, to be Mr. Berman's successor and to serve as the permanent U.S. Attorney for the Southern District once confirmed.

Shortly after Attorney General Barr issued his press release, U.S. Attorney Berman [issued](#) a statement indicating that he had *not* resigned his office and that he intended to remain in office until a successor has been confirmed by the Senate. Mr. Berman also stated that since he had been appointed by the federal judges in the Southern District of New York, he could be removed only by action of the President.

The next day, June 20, Mr. Barr publicly released a letter he had sent to Mr. Berman acknowledging that Mr. Berman had not in fact resigned but stating that President Trump had now fired him. Shortly thereafter, the President [contradicted](#) that statement, telling reporters, "I wasn't involved" in Mr. Berman's removal and "that's all up to the attorney general, Attorney General Barr is working on that. That's his department, not my department."

Finally, Attorney General Barr resolved the situation by deciding that Deputy U.S. Attorney Audrey Strauss, Mr. Berman's deputy, would become Acting U.S. Attorney for the Southern District. In light of that change of position by Attorney General Barr, Mr. Berman [agreed](#) that he would "be leaving the U.S. Attorney's Office for the Southern District of New York, effective immediately."

The contradictions apparent in the events resulting in the removal of Mr. Berman raise public suspicions and concerns and point to the need for a full investigation of this matter.

The first contradiction is that Attorney General Barr announced on June 20 that Mr. Berman had resigned, only to have Mr. Berman immediately contradict him by announcing that he had not resigned. This raises the question of whether Mr. Barr knowingly misrepresented the situation in an attempt to force Mr. Berman out of office without having to fire him, or whether this was just a misunderstanding between the two men. If Attorney General Barr publicly dissembled about the intentions of a duly appointed U.S. Attorney in these circumstances, that would clearly be improper action by the Attorney General.

The second contradiction is that, on the following day, Mr. Barr announced that the President had fired Mr. Berman, only to have the President immediately contradict him, stating that "I wasn't involved" in Mr. Berman's removal and "that's all up to the attorney general. . ."

Either the President or the Attorney General publicly misrepresented who was responsible for the purported firing of Mr. Berman, and an investigation is needed to get to the bottom of the misrepresentation involved here. The Attorney General had ample reason to attribute the firing of Mr. Berman to the President, since there were serious questions about whether Mr. Barr could legally remove Mr. Berman or whether only the President could do so. But if the Attorney General sought to avoid these legal issues by falsely stating the President had fired Mr. Berman, that misrepresentation would clearly be improper.

More generally, and more importantly, an investigation is needed to determine if Mr. Berman was removed from office in order to suppress ongoing [investigations](#) being conducted by the Southern District of New York relating to President Trump's associates and interests.

As is well known, the U.S. Attorney's office in the Southern District on New York prosecuted and convicted President Trump's former personal attorney, Michael Cohen, for campaign finance violations associated with the payment of hush money to women who claimed to have had sexual relations with President Trump. Prosecutors in the case referred to the President himself in court filings which [said](#) that Cohen had "acted in coordination with and at the direction of Individual-1." It is widely believed that "Individual 1" is President Trump.

The Southern District is also [reportedly](#) conducting an investigation into the activities of President Trump's personal attorney, Rudy Giuliani, for potential violations of the lobbying laws. Further, the Southern District [initiated](#) prosecution of Halkbank, a Turkish-government owned bank, for violating sanctions against Iran. [According](#) to former Trump national security advisor John Bolton, President Trump personally promised Turkish President Tayyip Erdogan that he would take care of the case.

Reportedly, these actions undertaken by the Southern District under Mr. Berman's leadership have angered President Trump. [According](#) to *The New York Times*:

Mr. Berman's office has taken an aggressive approach in a number of cases that have vexed the Trump administration, from the prosecution and guilty pleas obtained from Mr. Cohen to a broader investigation, growing out of that inquiry, which focused on Mr. Trump's private company and others close to him.

Over the last year, Mr. Berman's office brought indictments against two close associates of the president's current lawyer, Mr. Giuliani, and began an investigation into Mr. Giuliani himself, focusing on whether his efforts to dig up dirt in Ukraine on the president's political rivals violated laws on lobbying for foreign entities.

Mr. Berman's office also conducted an investigation into Mr. Trump's inaugural committee, subpoenaing financial and other records as part of a broad inquiry into possible illegal contributors from foreigners.

It is incumbent on your offices to thoroughly investigate whether Mr. Berman was ousted from his position as U.S. Attorney for the Southern District of New York as retribution for prosecutions brought by that office or to interfere with ongoing investigations of President Trump's interests and associates, such as Rudy Giuliani, being conducted by that office.

If any such retribution or interference were involved in this removal, it would constitute blatant improper action by the Attorney General and a direct attack on the rule of law.

The circumstances involved here certainly warrant an investigation, given the abnormal, misleading, and inept efforts by Attorney General Barr to remove Mr. Berman from his position.

Furthermore, Attorney General Barr took these actions against a backdrop of repeatedly exhibiting bias in Trump-related matters and a pattern and practice of efforts by Barr to use the power of the Attorney General's office to protect and promote the personal, political interests of President Trump.

Since April 15, 2019, Democracy 21 has filed six complaints with your offices, raising the common concern that Attorney General Barr is misusing his office to protect the personal, political interests of President Trump. We have detailed these improper activities by Attorney General Barr in our complaints dated [April 15](#), [May 7](#), and [October 1](#), 2019, and [January 17](#), [February 27](#) and [June 11, 2020](#).

In his behavior described in our complaints, Attorney General Barr has acted more as personal defense counsel to President Trump than as the Nation's chief law enforcement officer, whose core [mission](#) is "to ensure fair and impartial administration of justice for all Americans."

Given Mr. Barr's record of bias in promoting and defending the personal, political interests of President Trump, and given the ongoing investigations that the Southern District of New York is conducting into the activities of President Trump's associates and interests, Attorney General Barr's removal of U.S. Attorney Berman raises serious red flags of impropriety that warrant close scrutiny by your offices.

Your offices have an obligation to the Justice Department and to the American people to fulfill the responsibilities that you have been assigned and to tell truth to power. The institutional integrity of the Justice Department is at stake in the matter set forth above, as it also is in the matters we have raised in our previous six complaints to the Department about the Attorney General.

Democracy 21 strongly urges your offices to conduct a full investigation of the matters raised in this complaint and to take appropriate action to protect the integrity of the Justice Department and the interest of the American people in fair and impartial justice.

Respectfully submitted,

/s/ Fred Wertheimer

Fred Wertheimer
President