

The Honorable Jerrold Nadler, Chair
The Honorable Mary Gay Scanlon, Vice Chair
Committee on the Judiciary
U.S. House of Representatives

February 13, 2020

Dear Mr. Chairman Nadler and Madame Vice Chairwoman Scanlon,

On behalf of a coalition of national and state organizations, we ask you to reconvene the impeachment inquiry to investigate whether to recommend articles of impeachment pertaining to additional abuses of power by President Donald J. Trump and Attorney General William P. Barr that have occurred and come to light since the conclusion of the Senate impeachment trial.

These abuses of power involve retaliating against witnesses in congressional proceedings, improperly influencing ongoing judicial proceedings, directing law enforcement to investigate and prosecute political adversaries and critics, and obstructing the administration of justice. While the list continues to expand daily (sometimes hourly), as of this writing, your reconvened impeachment inquiry should consider the following actions:

- *Retaliating against witnesses for testifying in congressional impeachment hearings.* Trump fired Lieutenant Colonel Alexander Vindman and Amb. Gordon Sondland from their positions in clear retaliation for testifying in the impeachment hearings. Trump also improperly fired Lieutenant Colonel Vindman's brother, Lieutenant Colonel Yevgeny Vindman, from his position at the National Security Council for no apparent reason other than that he is a sibling of a witness before Congress.
- *Retaliating against federal official for advising compliance with the law.* Trump withdrew the nomination of Elaine McCusker, the acting Pentagon comptroller, for the permanent position. This was apparently in retaliation for her having advised White House officials to comply with the law in releasing aid that Congress had appropriated for aid to Ukraine.
- *Improperly interfering with ongoing judicial proceeding.* After Department of Justice prosecutors filed a sentencing memorandum recommending a prison sentence within the applicable United States Sentencing Guidelines of seven to nine years for Roger Stone, a Trump ally who had been convicted of lying to Congress and obstructing the Russia investigation to protect the president, Trump tweeted that the recommended sentence was "horrible and

very unfair.” The next day, the Department of Justice filed a revised sentencing memorandum recommending a much lower sentence. All four prosecutors involved in the case have resigned in protest; the president, meanwhile, has publicly congratulated Attorney General Barr for “taking charge of [the] case.”

- *Directing law enforcement to investigate and prosecute political adversaries and critics.* The Department of Justice recently announced new policy where the Attorney General must personally approve any FBI investigations into 2020 candidates or their campaign donors, or foreign spending in the election. Almost contemporaneously, the Attorney General announced that the department is setting up a process to review information that President Trump’s personal lawyer Rudy Giuliani is gathering in Ukraine about Joseph Biden and his son.

A classic move of a tyrant or autocrat is to abuse government power to attack his adversaries and critics. Since taking office, President Trump has repeatedly pressured the Department of Justice, the Federal Bureau of Investigation, and other law enforcement agencies to investigate and prosecute political adversaries.¹ Often, he accuses his political adversaries and critics of *treason* simply for (as an example) failing to applaud his State of the Union speech.² In the past, many of his efforts failed because officials ignored or declined to carry out his instructions. But most of those officials have since left the government; those in power now, such as Attorney General Barr, are willing or eager to do his will.

Attorney General Barr’s interference in prosecutors’ sentencing recommendations for Roger Stone is only the latest in a long line of abuses of power carried out by the Attorney General in furtherance of President Trump’s agenda. Since assuming office just one year ago, the Attorney General has obstructed Congress and interfered with ongoing investigations and, now, appears to be interfering in ongoing court cases. Congress should open an impeachment inquiry into Attorney General Barr to consider whether to recommend articles of impeachment pertaining to the Attorney General’s abuses of power, and to consider whether the

¹ See chapter 4 of Ron Fein, John Bonifaz, & Ben Clements, *The Constitution Demands It: The Case for the Impeachment of Donald Trump* (Melville House, 2018), for a sampling of President Trump’s extensive efforts to misuse the Department of Justice and other federal law enforcement to target named political adversaries and critics, including but not limited to President Obama, Hillary Clinton, James Comey, Huma Abedin, Andrew McCabe, the Democratic Party, NBC News, Amazon, and assorted reporters, athletes, and others.

² Ali Vitali, *Trump: Democrats’ muted State of the Union reaction ‘treasonous,’* NBC News, Feb. 5, 2018.

Attorney General's actions, carried out at the behest of the president, implicate additional abuses of power by President Trump. The investigation should include the following:

- *Misleading Congress and the public about the Mueller Report and its conclusions.* Two days after receiving Mueller's final report, and three weeks before releasing the report to the public, Barr released a misleading four-page summary of the report to Congress and to the American public. Barr subsequently misled Congress about his summary. Although Mueller sent Barr a letter on March 27, expressing concerns about his summary, Barr subsequently testified before Congress that he did not know if Mueller supported Barr's conclusions.
- *Attempting to undermine Mueller investigation after its conclusion.* After Mueller completed his investigation, Barr has continued to undermine his investigation and its conclusions, including by meeting with Italian intelligence agency officials to pressure them about a baseless theory regarding a source for Mueller's probe.
- *Obstructing Congress by denying it access to the whistleblower report.* The law requires that complaints detailing an "urgent concern" must be sent to Congress within three weeks of filing. However, the Justice Department determined that "no further action was warranted" on the Ukraine whistleblower complaint. The whistleblower complaint itself, the accuracy of which has now been established, named and implicated Barr.
- *Carrying out selective investigations into Trump's political rivals and individuals who have displeased Trump:* Barr has abused his power to carry out selective investigations into Trump's political rivals, including Joseph Biden and Hillary Clinton, and individuals whom Trump views as having opposed him, including former FBI director James Comey, former FBI deputy director Andrew McCabe, and former CIA director John Brennan.

Attorney General Barr, like President Trump, has abused his power to selectively investigate individuals seen to be political rivals of, or threats to, President Trump, and to protect President Trump, his allies, and his interests.

The Committee need not reason from first principles, because history provides ample precedent for impeachment on these grounds. Over the course of the nineteenth and twentieth centuries, Congress impeached three federal judges on charges categorized as "vindictive use of power." These included impeaching Judge James H. Peck in 1826 for a single instance of retaliation against a lawyer who had criticized one of his decisions; Judge Charles Swaine in 1903 for

maliciously using the criminal contempt power to imprison two lawyers and a litigant; and Judge George W. English in 1926 for “threatening to jail a local newspaper editor for printing a critical editorial.”³ And in 1974, Congress’s second article of impeachment against President Richard Nixon cited his use of federal investigative agencies (including the Internal Revenue Service and the FBI) against political opponents “for purposes unrelated to national security, the enforcement of laws, or any other lawful function of his office.”⁴

We ask that you reconvene the impeachment inquiry to investigate these actions by President Trump and Attorney General Barr, and determine whether to recommend articles of impeachment. We look forward to working with you on the next steps.

Sincerely,

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Signed By:

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Center for Popular Democracy
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Greenpeace USA
Mainers for Accountable Leadership
Progressive Democrats of America
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³ House Judiciary Comm., *Constitutional Grounds for Presidential Impeachment* 20 (93d Cong., Feb. 1974), <http://bit.ly/CGPI1974>.

⁴ House Judiciary Comm., *Impeachment of Richard M. Nixon, President of the United States* 3.