



July 28, 2017

The Honorable Michael E. Horowitz:  
Office of the Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue NW, Suite 4706  
Washington, D.C. 20530-0001

Dear Inspector General Horowitz:

The United States Constitution establishes a system of government designed to check power, curb the potential for abuse, and protect individual rights. Independent, apolitical law enforcement rooted in due process is one cornerstone of this system, and robust, confidential, and secure channels for federal employees to report improper conduct is another. Recent public comments by Anthony Scaramucci, White House Communications Director, threaten both of these critical elements of our constitutional system and demand further review. American Oversight therefore requests that the Office of the Inspector General (OIG) investigate Mr. Scaramucci's interactions with the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI), as well as undertake a programmatic review of broader compliance with applicable White House contacts policy in other contacts among White House, DOJ, and FBI officials.

On July 27, 2017, the *New Yorker* published an article detailing a conversation between Mr. Scaramucci and reporter Ryan Lizza.<sup>1</sup> During that conversation, Mr. Scaramucci complained about alleged leaks by White House staff and reportedly attempted to persuade Mr. Lizza to reveal one of his sources.<sup>2</sup> Mr. Scaramucci—who gave his comments on the record to a journalist who would, of course, print them—proceeded to threaten White House staff who may have disclosed information to the press, including indicating that he would fire them and claiming that he had “called the F.B.I. and the Department of Justice” regarding what he characterized as a “felony” leak of his publically available financial disclosure form.<sup>3</sup> Mr. Scaramucci also tweeted that he would be “contacting @FBI and the @TheJusticeDept” regarding “the leak of [his] financial info” though he later deleted the tweet.<sup>4</sup> In response to a question about that deleted tweet,

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<sup>1</sup> Ryan Lizza, *Anthony Scaramucci Called Me to Unload About White House Leakers, Reince Priebus, and Steve Bannon*, THE NEW YORKER, July 27, 2017, <http://www.newyorker.com/news/ryan-lizza/anthony-scaramucci-called-me-to-unload-about-white-house-leakers-reince-priebus-and-steve-bannon>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*



Mr. Scaramucci stated that he “talked to Attorney General Sessions” and that he has “got buddies of [his] in the FBI that [he’d] be calling.”<sup>5</sup>

In his conversation with Mr. Lizza, Mr. Scaramucci also elaborated on his broader efforts to identify and punish White House staff involved in alleged disclosures of information: “I nailed these guys. I’ve got digital fingerprints on everything they’ve done through the F.B.I. and the fucking Department of Justice.”<sup>6</sup> He further suggested that White House aides involved in alleged leaks would “get prosecuted.”<sup>7</sup>

Both the White House and the Department of Justice have longstanding policies governing communications between the White House officials and officials at DOJ, and these policies are critical to maintaining the independence and integrity of DOJ’s law enforcement activities.<sup>8</sup> Mr. Scaramucci’s remarks raise substantial concerns that he and officials at the FBI and DOJ—potentially including the Attorney General himself—have violated these policies and undertaken discussions of criminal investigative matters through channels not permitted under the policies. Indeed, public figures and media reports have already suggested that Mr. Scaramucci’s remarks, if true, reflect a such a violation.<sup>9</sup> Public officials have also expressed concern that Mr. Scaramucci’s

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<sup>5</sup> David Smith, *Scaramucci in Furious, Foul-Mouthed Attack on White House Rivals*, THE GUARDIAN (July 8, 2017, 2:32 AM), <https://www.theguardian.com/us-news/2017/jul/27/anthony-scaramucci-white-house-reince-priebus-steve-bannon>.

<sup>6</sup> See Lizza, *supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> See, e.g., Office of the Attorney General, Memorandum for Heads of Department Components & All United States Attorneys, “Communications with the White House and Congress” (May 11, 2009), available at <https://lawfare.s3-us-west-2.amazonaws.com/staging/2017/2009%20Eric%20Holder%20memo.pdf>; see also Jane Chong, *White House Interference with Justice Department Investigations? That 2009 Holder Memo*, LAWFARE (Feb. 22, 2017, 4:12 PM), <https://www.lawfareblog.com/white-house-interference-justice-department-investigations-2009-holder-memo>; Justin Florence, *On the Importance of Limiting White House-DOJ Contacts: It’s Not Just About Obstruction*, LAWFARE (May 22, 2017, 8:30 AM), <https://www.lawfareblog.com/importance-limiting-white-house-doj-contacts-its-not-just-about-obstruction>; *White House Communications with the DOJ and FBI*, UNITED TO PROTECT DEMOCRACY, Mar. 8, 2017, <https://unitedtoprotectdemocracy.org/agencycontacts/>.

<sup>9</sup> See David Smith, *Scaramucci in Furious, Foul-Mouthed Attack on White House Rivals*, THE GUARDIAN (July 8, 2017, 2:32 AM), <https://www.theguardian.com/us-news/2017/jul/27/anthony-scaramucci-white-house-reince-priebus-steve-bannon>; Alan Neuhauser, *There’s a Problem with Scaramucci Calling His FBI Buddies*, U.S. NEWS & WORLD REPORT (July 27, 2017, 5:37 PM), <https://www.usnews.com/news/national-news/articles/2017-07-27/theres-a-problem-with-scaramucci-calling-his-fbi-buddies> (“The president’s new communications director said Thursday he has spoken with the attorney general and he plans to contact the FBI about ongoing leak investigations, but legal analysts say such moves would violate longstanding White House and Justice Department policies meant to insulate investigators from political interference.”); Ronald Klain (@RonaldKlain), TWITTER (July 28, 2017, 9:04 AM),

threats overstep his authority and improperly invade the law enforcement responsibilities properly entrusted to the FBI and DOJ.<sup>10</sup>

Even if Mr. Scaramucci has not, in fact, contacted DOJ or FBI officials regarding alleged leaks by White House staff, his public remarks to the contrary reflect an alarming effort by one senior White House official to coerce and intimidate other administration officials. Such threats—even if ultimately empty—pose a substantial risk of chilling whistleblowing by federal employees who witness potential waste, fraud, abuse, violations of law, or other improper conduct within the federal government. If his assertions are false, it is critical to clarify the public record.

Mr. Scaramucci’s asserted interactions with DOJ and FBI officials are not the first time that White House officials in this administration have appeared to violate the contact policies intended to insulate federal law enforcement from improper political influence. In February, media reports indicated that that White House Chief of Staff Reince Priebus had contacted FBI to ask the agency “to publicly knock down media reports about communications between Donald Trump’s associates and Russians known to US intelligence during the 2016 presidential campaign.”<sup>11</sup> In May, news reports emerged regarding former director of the FBI James Comey’s discomfort with attempts by President Trump to engage with him on ongoing criminal investigative matters.<sup>12</sup> This pattern of apparently improper contacts has taken place in the broader context of numerous statements by the President and other White House officials that suggest that the administration does not fully appreciate the important rule of law principles and policy considerations that underlie protocols protecting federal law enforcement investigations from political interference.

In light of Mr. Scaramucci’s concerning statements, American Oversight—a non-partisan organization dedicated to accountability and ethics in government—requests that you investigate any contacts between Mr. Scaramucci (or anyone acting on his behalf) and Attorney General Sessions or any other officials at DOJ or FBI. Because Mr. Scaramucci’s remarks are far from the first

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<https://twitter.com/RonaldKlain/status/890920842389008384> (“Did Mooch’s comments to @RyanLizza admit a violation of WH Policy on DOJ/FBI contacts?”); Ronald Klain (@RonaldKlain), TWITTER (July 27, 2017, 6:09 PM), <https://twitter.com/RonaldKlain/status/890695585187201024> (“It may not include dirty words, but @Scaramucci’s quote on the left is an admission that he violated the WH policy attached on the right.”).

<sup>10</sup> Ari Fleisher (@AriFleischer), TWITTER (July 28, 2017, 8:47 AM), <https://twitter.com/AriFleischer/status/890916498931363840> (“Lost in WH noise is the fact that no WH aide (other than in counsel’s office) has or should have ability to seek DoJ prosecution of anybody.”).

<sup>11</sup> See Jim Sciutto et al., *FBI Refused White House Request to Knock Down Recent Trump-Russia Stories*, CNN (Feb. 24, 2017, 12:19 AM), <http://www.cnn.com/2017/02/23/politics/fbi-refused-white-house-request-to-knock-down-recent-trump-russia-stories/>.

<sup>12</sup> See, e.g., Michael S. Schmidt, *Comey, Unsettled by Trump, Is Said to Have Wanted Him Kept at a Distance*, N.Y. TIMES (May 18, 2017), <https://www.nytimes.com/2017/05/18/us/politics/james-comey-memo-fbi-trump.html>.

indication of improper contacts between the White House, DOJ, and FBI, we also ask that you conduct a programmatic review of DOJ's compliance with its White House contacts policy. We further ask that you investigate other efforts by Mr. Scaramucci or other senior White House officials to co-opt FBI or DOJ as a tool to intimidate White House staff, other federal officials, or ordinary citizens. Finally, we urge the Office of the Inspector General to encourage federal employees to report instances of wrongdoing they observe to Inspectors General or to the Office of the Special Counsel and to reassure employees that the OIG will enforce the robust protections the law affords federal whistleblowers.

Sincerely,



Austin R. Evers  
Executive Director  
American Oversight

cc: The Honorable Chuck Grassley  
Chair, Committee on the Judiciary, U.S. Senate

The Honorable Dianne Feinstein  
Ranking Member, Committee on the Judiciary, U.S. Senate

The Honorable Bob Goodlatte  
Chair, Committee on the Judiciary, U.S. House of Representatives

The Honorable John Conyers  
Ranking Member, Committee on the Judiciary, U.S. House of Representatives

The Honorable Adam Mills  
Acting Special Counsel, Office of Special Counsel