



Office of the Attorney General
Washington, D. C. 20530

March 29, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Robert W. Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Grassley, Goodlatte, and Gowdy:

I write in response to recent letters requesting the appointment of a Special Counsel to review certain prosecutorial and investigative determinations made by the Department of Justice in 2016 and 2017. I take the concerns you raise seriously.

Since I took this office, it has been my goal to establish the highest standards for our work and to maintain integrity and discipline throughout the Department of Justice. I know this Department, I respect it and its mission, and I love it and its people. I am deeply proud of the important work that the hardworking men and women of the Department do every day to fight violent crime, reduce opioid addictions and deaths, keep Americans safe from threats both foreign and domestic, and uphold the rule of law. We are determined to be worthy of the responsibility we have been given and to earn the trust of Congress and the American people. I appreciate your support for the Department and our law enforcement community.

It is important that Congress and the American people have confidence in the Department of Justice. No institution is perfect. That is why I and my senior leadership team, including FBI Director Wray, are working every day to ensure the

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highest levels of performance and integrity as we carry out our fundamental mission. We view Congress as partners in this effort. However, the law requires that much of the work we are doing to accomplish these goals remain confidential to ensure full and fair process and just outcomes. In that regard, as you know, the Department of Justice cannot provide continuous updates on ongoing investigations, or confirm or deny the existence thereof. This is integral to our duty to adhere to the highest ethical standards, and to ensure that prosecutorial and investigative decisions are made without political bias or favoritism—in either direction.

As you are aware, I have asked the Department's Inspector General, Michael E. Horowitz, to review certain matters that you and some members of your committees have raised in recent and previous letters. In addition to his ongoing investigation, the Inspector General has now confirmed that he has opened a review into the Department's compliance with certain legal requirements and Department and FBI policies and procedures with respect to certain applications filed with the U.S. Foreign Intelligence Surveillance Court.

Congress created the Department's Office of the Inspector General explicitly for the purpose of, among other things, investigating alleged violations of criminal and civil laws by Department employees, including actions taken by former employees after they have left government service. The Inspector General's jurisdiction extends not only to allegations of legal violations, but also to allegations that Department employees violated established policies as well.

To carry out these duties, Title 5 of the United States Code provides the Inspector General with broad discretion and significant investigative powers. The office currently employs approximately 470 staff, a significant number of whom are lawyers, auditors, and investigators who may exercise wide discretion on matters under their jurisdiction. If the Inspector General finds evidence of criminal wrongdoing, he may refer it to a United States Attorney who can then convene a grand jury or take other appropriate actions. To be clear, the Inspector General has the authority to investigate allegations of wrongdoing, collect evidence through subpoena, and develop cases for presentation to the Attorney General and the Deputy Attorney General for prosecution or other action. The Inspector General also may, under appropriate circumstances, make information available to the public even if no criminal or disciplinary action is recommended. In contrast, this type of information would not normally be publicly available after the conclusion of a traditional criminal investigation.

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Pursuant to Department of Justice regulations, the appointment of a Special Counsel, by design, is reserved for use in only the most “extraordinary circumstances.” 28 C.F.R. § 600.1(a). Under the regulations, any Special Counsel must be “selected from outside the United States Government.” *Id.* § 600.3(a). To justify such an appointment, the Attorney General would need to conclude that “the public interest would be served by removing a large degree of responsibility for the matter from the Department of Justice.” 64 Fed. Reg. 37038, 37038 (July 9, 1999). The Department has successfully investigated and prosecuted many high-profile, resource-intensive matters since the regulations were promulgated in 1999, but the regulations’ standard has been found to be satisfied on only two occasions.

The regulations recognize that, when presented with a matter “that might warrant consideration of the appointment of a Special Counsel,” the Attorney General may conclude that the circumstances do not justify such a departure “from the normal processes of the Department,” and that he may instead determine that other “appropriate steps” can be taken to mitigate any conflicts of interest. 28 C.F.R. § 600.2(c). Thus, in high-profile circumstances involving other politically sensitive matters, it has been more common to make special arrangements within the Department to ensure that actual or apparent conflicts can be avoided, while experienced and accountable prosecutors conduct an efficient and appropriate investigation that comports with the interests of justice and with the public interest.

As noted in Assistant Attorney General Stephen E. Boyd’s November 13, 2017, letter to the House Committee on the Judiciary, I already have directed senior federal prosecutors to evaluate certain issues previously raised by the Committee. In that letter, Mr. Boyd stated:

“These senior prosecutors will report directly to the Attorney General and the Deputy Attorney General, as appropriate, and will make recommendations as to whether any matters not currently under investigation should be opened, whether any matters currently under investigation require further resources, or whether any matters merit the appointment of a Special Counsel.”

Specifically, I asked United States Attorney John W. Huber to lead this effort. Mr. Huber is an experienced federal prosecutor who was twice confirmed unanimously by the Senate as United States Attorney for the District of Utah in 2015 and 2017. Mr. Huber previously served in leadership roles within the U.S. Attorney’s Office as the National Security Section Chief and the Executive Assistant U.S. Attorney. He has personally prosecuted a number of high-profile cases and coordinated task forces focused against violent crime and terrorism. This work

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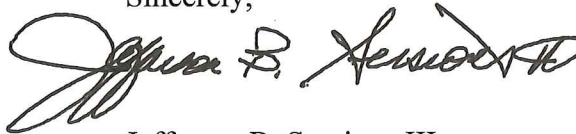
garnered commendations from the highest levels of the Department over the course of two administrations.

Mr. Huber is conducting his work from outside the Washington, D.C. area and in cooperation with the Inspector General. The additional matters raised in your March 6, 2018, letter fall within the scope of his existing mandate, and I am confident that Mr. Huber's review will include a full, complete, and objective evaluation of these matters in a manner that is consistent with the law and the facts. I receive regular updates from Mr. Huber and upon the conclusion of his review, will receive his recommendations as to whether any matters not currently under investigation should be opened, whether any matters currently under investigation require further resources, or whether any matters merit the appointment of a Special Counsel.

We understand that the Department is not above criticism and it can never be that the Department conceals errors when they occur. I expect every person in this Department to adhere to the highest level of integrity, ethics, and professionalism. If anyone falls short of these high standards, I will fulfill my responsibility to take necessary action to protect the integrity of our work.

Thank you for your leadership on these and other matters. I am making your letters on this and related issues available to the Department's leadership, Inspector General Horowitz, and Mr. Huber for such action as is appropriate. Please contact me personally if you have additional questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jefferson B. Sessions III". The signature is fluid and cursive, with a large initial "J" and "S".

Jefferson B. Sessions III
Attorney General

cc: The Honorable Dianne Feinstein
Ranking Member, Senate Committee on the Judiciary

The Honorable Jerry Nadler
Ranking Member, House Committee on the Judiciary

The Honorable Elijah Cummings
Ranking Member, House Committee on Oversight and Government Reform