

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

June 22, 2020

The Honorable Jerrold L. Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

Today your staff indicated that you intend to issue a subpoena to Attorney General William P. Barr for testimony at a Committee hearing on July 2, 2020. The Attorney General had previously agreed to appear voluntarily in March, before you cancelled the hearing due to the coronavirus pandemic.¹ Attorney General Barr remains willing to testify voluntarily once the pandemic concludes.² Accordingly, there is no legitimate basis for you to compel his testimony at this time.

You have adopted an odd and decidedly partisan posture toward Attorney General Barr ever since his confirmation. In April 2019, even before Attorney General Barr appeared before the Committee, you baselessly accused him of being a “biased person” doing the political bidding of the President.³ Then, in May 2019, the day before the Attorney General’s first scheduled appearance, you orchestrated an unprecedented change to the Committee’s hearing procedures—rules to which no other recent Attorney General had been subjected—that you knew would prevent him from testifying.⁴ On the date of his scheduled testimony, you laughed as a senior Democrat Member brought a bucket of fried chicken to suggest that Attorney General Barr was somehow afraid to face the Committee. This sort of conduct embarrasses the Committee, undermines its work, and stains its reputation.

Over the weekend you made additional unusual comments about Attorney General Barr following the removal of U.S. Attorney Geoffrey Berman. Although the Attorney General leads the men and women of the Justice Department, including U.S. attorneys, and the President has unquestioned authority to remove U.S. attorneys, you somehow interpreted Berman’s removal to be evidence of a nefarious plot.⁵ You suggested that Attorney General Barr was worthy of

¹ Tweet by Rep. Jerry Nadler, Twitter.com (Mar. 23, 2020, 2:31 p.m.), <https://twitter.com/RepJerryNadler/status/1242157079344939011>.

² Letter from Stephen Boyd, Dep’t of Justice, to Jerrold L. Nadler, Chairman, H. Comm. on the Judic. (June 1, 2020).

³ *Face the Nation* (CBS Apr. 7, 2019) (interview with Rep. Jerrold L. Nadler).

⁴ Mark-up of the H. Comm. on the Judic., 116th Cong. (2019).

⁵ Press Release, Chairman Nadler Statement on Bill Burr’s Purported Firing of SDNY Prosecutor (June 20, 2020).

impeachment for his actions but that you would not impeach him because, as you alleged without evidence, “corrupt” Republican senators would protect him.⁶ This comment, in particular, seems to suggest that you harbor resentment for your embarrassing spectacle during President Trump’s impeachment trial in the Senate chamber earlier this year.

You began posturing for this conflict with Attorney General Barr in May, following the Justice Department’s decision to drop charges against LTG Michael Flynn. As an initial matter, your disagreement with the Justice Department’s course of action in the Flynn matter is curious given your history as a champion of civil liberties. Newly released documents that were withheld from LTG Flynn’s lawyers detail how the FBI sought to entrap LTG Flynn and how the Special Counsel’s Office pressured him into pleading guilty by threatening his son. These developments should shock anyone who—like you—claims to be committed to protecting civil liberties.

I understand you may not agree with the Justice Department’s work to expose how the Obama-Biden Administration targeted the Trump campaign. You may not believe that it is wrong for the FBI to interview an American citizen with the goal of “get[ting] him to lie, so we can prosecute or get him fired.”⁷ You may not believe it is wrong to use political opposition research and Russian disinformation as a basis to illegally spy on an American citizen.⁸ You may not believe it is wrong for an FBI attorney to doctor evidence in support of an application for electronic surveillance.⁹ You may not be alarmed by senior FBI employees discussing an “insurance policy” against a duly-elected President of the United States.¹⁰

Regardless, however much you may disagree with the Justice Department’s policy decisions—or agree with the Obama-Biden Administration’s targeting of the Trump campaign—those are not legitimate reasons to compel Attorney General Barr’s testimony at this time. When you postponed his testimony in March, you acknowledged that the Justice Department had committed to reschedule the Attorney General’s testimony. As the Justice Department informed you earlier this month, that commitment remains in place. Simply put, while your oddly personal animosity toward Attorney General Barr may have grown in the intervening period, relevant circumstances have not changed since March sufficient to warrant a subpoena at this time.

Because you chose confrontation instead of cooperation last May, the Committee missed an opportunity to hear directly from the Attorney General. I urge you not to make the same mistake again. Compelling Attorney General Barr to testify now on an artificial political timeline when he has already agreed to testify voluntarily would be manifestly unfair and an abuse of power. I urge you to set aside your animosity, choose cooperation over confrontation, and work

⁶ Jason Slotkin, *House Judiciary Chair says Barr should be impeached, but won’t be*, Nat’l Pub. Radio (June 21, 2020).

⁷ Handwritten Notes, Document 188, *United States v. Flynn*, No. 17-000232 (D.D.C. Apr. 29, 2020).

⁸ Dep’t of Justice Off. Of Inspector Gen., *Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation* (Dec. 2019).

⁹ *Id.*

¹⁰ Dep’t of Justice Off. Of Inspector Gen., *A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election* (June 2018).

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collaboratively to find a mutually agreeable date for Attorney General Barr to testify. If you insist on issuing a subpoena for Attorney General Barr's testimony, however, I respectfully object and request an in-person business meeting.¹¹

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style.

Jim Jordan
Ranking Member

¹¹ Business Meeting of the H. Comm. on the Judic., 116th Cong. (2019) (colloquy between Chairman Nadler and then-Ranking Member Collins).