

United States Senate
WASHINGTON, DC 20510

February 18, 2020

Hon. Michael Horowitz
U.S. Department of Justice Office of the Inspector General
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Inspector General Horowitz,

We write to request that you expand your ongoing investigation into Rudolph Giuliani's contacts with the Federal Bureau of Investigation (FBI) to examine whether Mr. Giuliani has had improper communications with other senior Department of Justice (DOJ) officials.

As outlined in the attached appendix, there has been significant reporting on Mr. Giuliani's contacts with DOJ officials and his efforts to influence ongoing investigations to benefit his clients, including President Trump. These reports suggest that Mr. Giuliani has used his relationship with the President, including his representation of the President as a private citizen, to gain improper access to attorneys and investigators in the agency, particularly political appointees who serve at the President's pleasure.

Various federal laws and regulations, as well as DOJ policies and procedures, are in place to prevent improper influence and actual or apparent conflicts of interest. For example:

- DOJ guidelines limit disclosures about ongoing investigations to the public. *See* U.S. Dep't of Justice, Justice Manual § 1-7.400.
- DOJ policy strictly limits contacts between DOJ and the White House about law enforcement investigations and prosecutions. *See* Holder Memo, *Communications with the White House and Congress*, May 11, 2009. DOJ officials are not authorized under this policy to speak with a President's personal attorney. If Mr. Giuliani is serving as intermediary for communications between the President and DOJ officials that would be inappropriate to have directly, this may raise concerns that to go to the heart of prosecutorial independence and judgment.
- The Foreign Agents Registration Act requires attorneys engaged in legal representation of a non-U.S. person or company "to disclose the identity of his principal as a matter of established agency procedure . . . to each of the agency's personnel or officials before whom and at the time his legal representation is undertaken." 28 C.F.R. § 5.306(b).

- DOJ attorneys are governed by ethical rules and standards, including rules requiring that DOJ employees perform their official duties impartially. *See, e.g.*, 5 C.F. R. § 2635.101; 5 C.F. R. § 2635.501 – 503; 28 C.F.R. § 45.2.; U.S. Dep’t of Justice, Justice Manual § 1-4.010.

We are concerned that Mr. Giuliani’s interactions with senior DOJ officials may have unduly influenced or created conflicts of interests with regard to DOJ activities. At a minimum, Mr. Giuliani’s access creates an appearance of impropriety that could undermine trust in the agency. If his contacts do not violate one or more of these provisions, further internal guidance may be needed to ensure that DOJ delivers “fair and impartial administration of justice for all Americans.”

As Inspector General, your statutory authority uniquely positions you to conduct the necessary investigation and keep “Congress fully and currently informed about problems and deficiencies relating to the administration of [the Department] and the necessity for and progress of corrective action.” We urge you to review the facts outlined in this letter and issue a public report on your findings and whether corrective action is needed.


Sincerely,

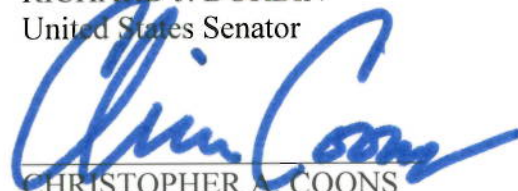

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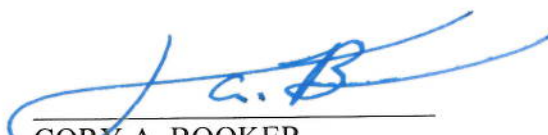

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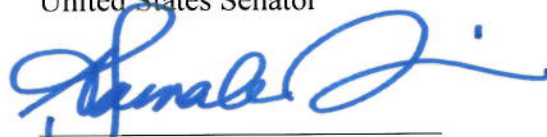

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APPENDIX

Mr. Giuliani's recent contacts with DOJ raise concerns about improper influence and actual or apparent conflict of interests.¹

- Mr. Giuliani has access to senior DOJ officials to discuss cases against his clients. In early 2017, Mr. Giuliani sought to involve then-Attorney General Jeff Sessions and then-U.S. Attorney Preet Bharara in his efforts to arrange a prisoner swap that would return his client, Reza Zarrab, to Turkey.² At the time, the Southern District of New York was prosecuting Mr. Zarrab for funneling \$10 billion to Iran in defiance of U.S. sanctions.³ Mr. Giuliani also sought a meeting with then-Deputy Attorney General Rod Rosenstein to press Mr. Zarrab's case, saying that he was "coming from the White House" to meet with Department officials.⁴

In August 2019, Mr. Giuliani traveled to Spain to meet with a top aide to Ukraine President Volodymyr Zelensky on the President's behalf. While there, Mr. Giuliani – along with associates Lev Parnas and Igor Fruman, who have since been indicted by prosecutors in the Southern District of New York – stayed at an estate that belongs to Alejandro Betancourt Lopez, a Venezuelan energy executive.⁵ The next month, September 2019, Mr. Giuliani met with Assistant Attorney General Benczkowski, the head of DOJ's Criminal Division, and other government lawyers on Mr. Lopez's behalf.⁶

¹ Concerns about Mr. Giuliani's influence at DOJ are not new. In 2002, Purdue Pharma hired Mr. Giuliani—who was then a DOJ subcontractor—and his consulting firm, Giuliani Partners, to influence officials at DOJ and other federal agencies. At the time, the U.S. Attorney's Office for the Western District of Virginia was investigating Purdue Pharma. Then-Deputy Chief of the Fraud Section of DOJ's Criminal Division, Paul Pelletier, has stated, "There [was] no justification for which you shouldn't prosecute those individuals. None." Nevertheless, Mr. Giuliani was able to convince DOJ's political appointees to reject career prosecutors' recommendation to pursue felony charges against Purdue Pharma executives and accept a guilty plea to less serious misdemeanor charges of intentionally "misbranding" OxyContin. See Barry Meier, *Origins of an Epidemic: Purdue Pharma Knew Its Opioids Were Widely Abused*, N.Y. Times, May 29, 2018, available at

<https://www.nytimes.com/2018/05/29/health/purdue-opioids-oxycontin.html>; Barry Meier & Eric Lipton, *Opioid's Maker Hid Knowledge of Wide Abuse*, N.Y. Times, Dec. 28, 2007, available at

<https://www.nytimes.com/2007/12/28/us/politics/28oxycontin.html>; *The Weekly: Episode 10: 'The Memo'*, N.Y. Times, Aug. 16, 2019, available at <https://www.nytimes.com/2019/08/16/the-weekly/opioid-crisis-epidemic.html>.

² Jo Becker, Maggie Haberman, & Eric Lipton, *To Free Client, Giuliani Pushed Tillerson for Help*, N.Y. Times, Oct. 11, 2019, at A1, available at <https://www.nytimes.com/2019/10/10/us/politics/giuliani-trump-rex-tillerson.html>.

³ *Id.*

⁴ *Trump asked Tillerson to help broker deal to end U.S. prosecution of Turkish trader represented by Giuliani*, Wash. Post, Oct. 10, 2019, https://www.washingtonpost.com/politics/trump-asked-tillerson-to-help-broker-deal-to-end-us-prosecution-of-turkish-trader-represented-by-giuliani/2019/10/10/fbe16976-eb6b-11e9-9306-47cb0324fd44_story.html.

⁵ *A wealthy Venezuelan hosted Giuliani as he pursued Ukraine campaign. Then Giuliani lobbied the Justice Department on his behalf*, Wash. Post, Nov. 26, 2019, https://www.washingtonpost.com/politics/a-wealthy-venezuelan-hosted-giuliani-as-he-pursued-ukraine-campaign-then-giuliani-lobbied-the-justice-department-on-his-behalf/2019/11/26/272105a2-0ec5-11ea-b0fc-62cc38411ebb_story.html.

⁶ Aram Roston, Matt Spetalnick, & Brian Ellsworth, *Exclusive: Giuliani told U.S. his client deserves leniency for financing Venezuela's opposition – Parnas*, Reuters, Jan. 22, 2020, <https://www.reuters.com/article/us-venezuela-financing-venezuela-s-opposition-parnas>.

Attorney General Barr also briefly attended the meeting.⁷ Mr. Lopez was under investigation for his involvement in a scheme to embezzle \$1.2 billion from Venezuela's government-owned oil company and launder it through false real estate and security deals.⁸ Mr. Giuliani reportedly urged DOJ to drop its investigation, arguing that Mr. Lopez had provided financial assistance to Juan Guaido, the head of Venezuela's opposition government, who President Trump supports.⁹

The *New York Times* also reported that former Assistant to the President for National Security Affairs John Bolton "warned White House lawyers last year that Mr. Giuliani might have been using his work representing the president as leverage to help his private clients."¹⁰

- DOJ may be pursuing politically motivated investigations initiated by Mr. Giuliani. Mr. Giuliani claims to be "investigating" alleged corruption in connection with then-Vice President Joe Biden's role in Ukraine policy, as well as claims that Ukraine, not Russia, interfered in the 2016 election.¹¹ President Trump has long pushed Attorney General Barr to initiate his own investigations into these matters.¹² In a call on July 25, 2019, President Trump told Ukrainian President Volodymyr Zelensky that both Mr. Giuliani and Attorney General Barr would call him about these investigations.¹³ Shortly after the call transcript was released in September, DOJ acknowledged that U.S. Attorney Durham is currently investigating Ukraine's alleged interference into the 2016 election.¹⁴ U.S. Attorney Durham may also be investigating Vice President Biden.¹⁵

[politics-guaido-giuliani/exclusive-giuliani-told-u-s-his-client-deserves-leniency-for-financing-venezuelas-opposition-parmas-idUSKBN1ZLIAR.](https://www.nytimes.com/2020/01/17/politics/giuliani-ukraine-trump.html)

⁷ Evan Perez & David Shortell, *Barr dropped into Giuliani meeting at Justice Department in previously undisclosed encounter*, CNN, Jan. 17, 2020, <https://www.cnn.com/2020/01/17/politics/barr-giuliani-justice-department-meeting/index.html>.

⁸ Roston, Spetalnick, & Ellsworth, *supra* note 6.

⁹ *Id.*

¹⁰ Noah Weiland, *5 Takeaways From a Book That Could Complicate Trump's Impeachment Trial*, N.Y. Times, Jan. 27 2020, at A12, available at <https://www.nytimes.com/2020/01/26/us/politics/john-bolton-trump-book-takeaways.html>

¹¹ Kenneth P. Vogel, *Giuliani Plans to Prod Ukraine In Cases That Might Aid Trump*, N.Y. Times, May 9, 2019, at A1, available at <https://www.nytimes.com/2019/05/09/us/politics/giuliani-ukraine-trump.html>.

¹² Eliana Johnson, Darren Samuelsohn, Andrew Restuccia, & Daniel Lippman, *Trump: Discussing a Biden probe with Barr would be 'appropriate'*, May 11, 2019, <https://www.politico.com/story/2019/05/10/trump-biden-ukraine-barr-1317601>; Gregg Re, *Clinton-Ukraine collusion allegations 'big' and 'incredible,' will be reviewed, Trump says*, Fox News, Apr. 25, 2019, <https://www.foxnews.com/politics/trump-barr-will-look-at-incredible-possibility-of-ukraine-clinton-collusion>.

¹³ Transcript of Call Between President Donald J. Trump & President Volodymyr Zelensky, July 25, 2019, <https://www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf>.

¹⁴ Kerri Kupec, Statement on Behalf of the Dep't of Justice, Sept. 25, 2019, available at https://www.cnn.com/politics/live-news/trump-impeachment-inquiry-09-25-2019/h_619f3c67775916f27e22898fbed210f2.

¹⁵ Letter to Hon. Richard Burr & Hon. Adam Schiff from Unnamed Whistleblower, Aug. 12, 2019, at 5, available at https://intelligence.house.gov/uploadedfiles/20190812_-_whistleblower_complaint_unclass.pdf; Alexander Bolton, *Cornyn makes waves with tweet about Justice investigating Biden*, The Hill, Oct. 4, 2019, <https://thehill.com/homenews/senate/464401-cornyn-makes-waves-with-tweet-about-justice-investigating-biden>.

- Mr. Giuliani may be trading on his relationship with President Trump to “fix” DOJ cases for clients and pursue politically-motivated investigations on Trump’s behalf. In August 2019, Attorney General Barr reportedly met with Victoria Toensing and Joseph diGenova, two attorneys collaborating with Mr. Giuliani on his efforts in the Ukraine, on behalf of Dmytro Firtash, an indicted Ukrainian oligarch awaiting extradition to the United States who has claimed to have damaging information about Vice President Biden.¹⁶ Lev Parnas, another Giuliani associate, says he witnessed other conversations between Attorney General Barr and Mr. diGenova, as well as conversations between Attorney General Barr and Mr. Giuliani.¹⁷ On December 7, 2019, President Trump said Mr. Giuliani was planning to send Attorney General Barr a report on the information he gathered on a December trip to Ukraine, indicating that Mr. Giuliani may be using his access to top DOJ officials to leverage information for the President from legally vulnerable Oligarchs with deep ties to the Kremlin.¹⁸ On February 9, 2020, Sen. Lindsey Graham confirmed that DOJ had begun receiving information from Mr. Giuliani about former Vice President Joe Biden and his son, Hunter Biden, indicating that Mr. Giuliani is using his access to top DOJ officials to leverage information for the President and encourage DOJ to pursue investigations of his political rivals.¹⁹
- Mr. Giuliani appears to have inside information about DOJ’s investigations. On August 8, 2019, Mr. Giuliani told Fox News that U.S. Attorney Durham is “spending a lot of time in Europe. He spent a lot of time investigating Ukraine, Italy, U.K., and Australia.”²⁰ Durham’s interest in Ukraine did not become public knowledge until more than six weeks later, when DOJ confirmed Durham was “exploring the extent to which a number of countries, including Ukraine, played a role in the counterintelligence investigation directed at the Trump campaign during the 2016 election.”²¹

¹⁶ Andrew Prokop, *Lev Parnas’s dramatic new claims about Trump and Ukraine, explained*, Vox, Jan. 16, 2020, <https://www.vox.com/policy-and-politics/2020/1/16/21068446/lev-parnas-maddow-trump-barr>.

¹⁷ *Id.*

¹⁸ Colby Itkowitz, *Trump: Giuliani will report to Justice Department, Congress on his investigations in Ukraine*, Wash. Post, Dec. 7, 2019, https://www.washingtonpost.com/politics/trump-giuliani-will-report-to-justice-department-congress-on-his-investigations-in-ukraine/2019/12/07/c8cbabae-192f-11ea-8406-df3c54b3253e_story.html.

¹⁹ Catie Edmondson, *Justice Dept. Reviewing Information from Giuliani on the Bidens, Graham Says*, N.Y. Times, Feb. 9, 2020.

²⁰ Transcript of “Hannity,” Aug. 8, 2019, available at <https://www.foxnews.com/transcript/rep-jordan-you-do-302s-because-youre-out-to-get-someone-they-were-out-to-get-trump>.

²¹ Devlin Barrett, Matt Zapotosky, Carol D. Leonnig, & Shane Harris, *Trump offered Ukrainian president Justice Dept. help in an investigation of Biden, memo shows*, Wash. Post, Dec. 26, 2019, https://www.washingtonpost.com/national-security/transcript-of-trumps-call-with-ukrainian-president-shows-him-offering-us-assistance-for-biden-investigation/2019/09/25/16aa36ca-df0f-11e9-8dc8-498eabc129a0_story.html