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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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November 27, 2018

The Honorable Richard Blumenthal
Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Blumenthal:

This letter responds to your letter dated November 26, 2018, regarding Acting Attorney General Matthew Whitaker.

Reports surfaced last week alleging that Acting Attorney General Whitaker violated the Hatch Act by receiving \$8,800 in donations to Mr. Whitaker's 2014 Iowa Senate campaign fund. By its terms, the Hatch Act prohibits "knowingly" soliciting, accepting or receiving political contributions. The former treasurer for Acting Attorney General Whitaker's Senate campaign told reporters that neither he nor Whitaker solicited the donations. The reason that the campaign committee remained open was to deal with remaining debt. Nevertheless, the Office of Special Counsel has indicated it received a complaint from the group American Oversight – a liberal advocacy group consisting of several former attorneys in the Obama administration as well as a former lawyer for Minority Leader Chuck Schumer, with the openly stated purpose of attacking a "Trump administration ... plagued by scandal, misconduct, and conflicts of interest" – and has opened a case. The OSC has conducted numerous Hatch Act investigations, including of high-profile subjects, and it is the proper forum for this investigation.

As you also indicated, a report surfaced weeks ago claiming that Acting Attorney General Whitaker attempted to facilitate President Trump's desire for the Department of Justice to pursue the investigation into Hillary Clinton's improper home-based email server and mishandling of classified information.¹ An official "close to Whitaker" disputed those claims, saying that the then-chief of staff was merely "attempting to diffuse the tension between the president" and then-Attorney General Jeff Sessions and Deputy Attorney General Rod Rosenstein. As far as the Special Counsel's investigation, I have said a number of times that Special Counsel Mueller should be allowed to proceed with the investigation to its prompt conclusion. I have confidence that whoever oversees that investigation will do so with the best interests of the investigation in

¹ Murray Waas, *Exclusive: Trump Loyalist Matthew Whitaker Was Counseling the White House on Clinton Investigation*, Vox, Nov. 9, 2018, <https://www.vox.com/policy-and-politics/2018/11/9/18080656/matthew-whitaker-trump-hillary-clinton-sessions-attorney-general>.

mind. As a champion of transparency, I am also looking forward to a full accounting of the investigation and its conclusions.

With regard to Acting Attorney General Whitaker's appointment and calls for a hearing, President Trump acted appropriately and lawfully in appointing Acting Attorney General Whitaker under the Federal Vacancies Reform Act of 1998, 5 U.S.C. §§ 3345-3349c ("Vacancies Act"). That decision is supported by three separate legal opinions from DOJ's Office of Legal Counsel ("OLC") in 2003, 2007, and earlier this month. Moreover, Acting Attorney General Whitaker's role is generally limited in time. If the President nominates an Attorney General candidate during Acting Attorney General Whitaker's service, Acting Attorney General Whitaker may remain in his acting role until the nomination is confirmed. President Trump is entitled to nominate an Attorney General of his choosing, and I look forward to working with the President on the confirmation effort for whomever the President nominates. A confirmation hearing will be announced after the President makes his nomination. Until then, any hearing would be premature.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary