

QUESTIONS FOR THE RECORD
WILLIAM P. BARR
NOMINEE TO BE UNITED STATES ATTORNEY GENERAL

QUESTIONS FROM SENATOR HARRIS

1. At your confirmation hearing, you agreed to follow the Special Counsel regulations in your handling of Robert Mueller's investigation into Russian interference in the 2016 election. Among other things, those regulations require the Attorney General to notify the House and Senate Judiciary Committees, with an explanation for each action upon conclusion of the Special Counsel's investigation.
 - a. If confirmed, will you commit to working with Mr. Mueller to ensure that he agrees with the representations, descriptions, and summaries in your report(s) to Congress?
 - b. If confirmed, will you commit to working with Mr. Mueller to ensure that he agrees with any decision to withhold information from Congress, whether for privilege or otherwise?

RESPONSE: As I stated during my hearing before the Committee, I believe it is very important that the public and Congress be informed of the results of the Special Counsel's work. For that reason, my goal will be to provide as much transparency as I can consistent with the law, including applicable regulations, and the Department's longstanding practices and policies. Where judgments are to be made by me, I will make those judgments based solely on the law and Department policy and will let no personal, political, or other improper interests influence my decision. As I stated during the hearing, if confirmed, I intend to consult with Special Counsel Mueller and Deputy Attorney General Rosenstein regarding any report that is being prepared and any disclosures or notifications that I make under applicable regulations as Attorney General.

The regulations also state that the Attorney General may publicly release the Special Counsel's report, if release is in the public interest and to the extent that release complies with applicable legal restrictions.

- c. If confirmed, what facts and principles will guide your decision about whether or not to publicly release the Special Counsel's report?

RESPONSE: The applicable regulations provide that the Special Counsel will make a "confidential report" to the Attorney General "explaining the prosecution or declination decisions reached by the Special Counsel." See 28

C.F.R. § 600.8. The commentary to these regulations, which were issued by the Clinton Administration Department of Justice, explains that the Special Counsel's report is to be "handled as a confidential document, as are internal documents relating to any federal criminal investigation. The interests of the public in being informed of and understanding the reasons for the actions of the Special Counsel will be addressed" through the Attorney General's reporting requirements. *See* 64 Fed. Reg. 37038, 37040-41. Under the regulations, the Attorney General must "notify the Chairman and Ranking member of the Judiciary Committees of each House of Congress . . . Upon conclusion of the Special Counsel's investigation." 28 C.F.R. § 600.9(a)(3). The regulations further provide that the Attorney General may publicly release the Attorney General's notification if he or she concludes that doing so "would be in the public interest, to the extent that release would comply with applicable legal restrictions." *Id.* § 600.9(c).

I believe it is very important that the public and Congress be informed of the results of the Special Counsel's work. For that reason, my goal will be to provide as much transparency as I can consistent with the law, including the regulations discussed above, and the Department's longstanding practices and policies. Where judgments are to be made by me, I will make those judgments based solely on the law and Department policy and will let no personal, political, or other improper interests influence my decision. As I stated during the hearing, if confirmed, I intend to consult with Special Counsel Mueller and Deputy Attorney General Rosenstein regarding any report that is being prepared and any disclosures or notifications that I make under applicable regulations as Attorney General.

2. In August 2017, the Justice Department began investigating Harvard University for its affirmative action policies. One year later, the Justice Department filed a statement of interest in a federal case opposing Harvard University's affirmative action policies.
 - a. As a practical matter, do you believe that educational institutions are likely to be able to achieve meaningful racial diversity without recognizing and taking account of race?

RESPONSE: As I am not currently at the Department of Justice, I am not familiar with the Department's decisions regarding this issue or the facts on which these decisions have been made. As a general matter, I believe the Department should refrain from commenting on ongoing investigations and cases, as well as closed matters. Because this appears to be an ongoing issue, and because I am not familiar with the particulars of the underlying decisions, I am unable to comment further.