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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

September 12, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

On September 8, *The New York Times* reported that, according to former U.S. Attorney for the Southern District of New York (SDNY) Geoffrey S. Berman, high-ranking Trump administration appointees pressured the SDNY U.S. Attorney's Office to prosecute critics of the former president and protect the former president and his allies.¹ These reported claims indicate astonishing and unacceptable deviations from the Department's mission to pursue impartial justice, which requires that its prosecutorial decisions be free from political influence. They also compound the already serious concerns raised by then-Attorney General Barr's 2020 efforts to replace Mr. Berman with a Trump loyalist.

Perhaps most shockingly, Mr. Berman's allegations suggest that former President Obama's White House Counsel Gregory B. Craig was prosecuted for political reasons after the SDNY U.S. Attorney's Office determined that there was no basis to charge him. Mr. Berman reportedly claims that in September 2018, Principal Associate Deputy Attorney General Edward O'Callaghan asked Mr. Berman's deputy to charge Mr. Craig with a violation of the Foreign Agents Registration Act before the midterm election. According to Mr. Berman, Mr. O'Callaghan "cited the Southern District's recent prosecutions of two prominent Trump loyalists" and said "[i]t's time for you guys to even things out." Mr. Berman reportedly rejected the request because, based on months of investigation, he believed that Mr. Craig was innocent. Mr. Berman claims that Department officials then "peddled" the investigation to the U.S. Attorney's Office for the District of Columbia, which indicted and tried Mr. Craig—who was acquitted by a jury in fewer than five hours.

Mr. Berman, who volunteered for the 2016 Trump campaign and transition and served as U.S. Attorney for more than two years under then-President Trump, reportedly details additional

¹ Benjamin Weiser, *Trump Pushed Officials to Prosecute His Critics, Ex-U.S. Attorney Says*, N.Y. TIMES (Sept. 8, 2022).

episodes of political interference in a forthcoming book. For example, he contends that Department officials pressured his office to remove references to President Trump from the charging document for Michael Cohen, his personal lawyer, as well as later attempts by Attorney General Barr himself to reverse Mr. Cohen's conviction and stop related investigations and prosecutions entirely. Mr. Berman also indicates that on May 9, 2018—following two days of President Trump attacking former Secretary of State John Kerry on Twitter—Department officials instructed his office that it was to lead an investigation into Secretary Kerry for alleged violations of the Logan Act. After his office declined to charge Kerry, Berman was told that Barr planned to shop the investigation to the U.S. Attorney's Office for the District of Maryland, which also declined to prosecute.

If accurate, Mr. Berman's claims indicate multiple instances of political interference in the Department's investigative and prosecutorial decisions. The Senate Judiciary Committee will investigate these episodes. To that end, please produce the following materials as soon as possible, but no later than October 3, 2022:

1. All documents and communications between and among officials in the U.S. Attorney's Office for the Southern District of New York ("USAO-SDNY") and officials in the Office of Attorney General, Office of the Deputy Attorney General, and/or the Criminal Division front office (collectively, "Main Justice") referring or related to requests or suggestions by Main Justice that the USAO-SDNY prosecute Mr. Craig;
2. All documents and communications between and among officials in the U.S. Attorney's Office for the District of Columbia ("USAO-DC") and Main Justice officials referring or related to requests or suggestions by Main Justice that the USAO-DC investigate Mr. Craig after the USAO-SDNY declined to prosecute him;
3. All documents and communications referring or related to requests by Main Justice officials that the USAO-SDNY remove references to Trump and/or "Individual-1" from the charging document for Mr. Cohen;
4. All documents and communications referring or related to reported attempts by Attorney General Barr to reverse Mr. Cohen's conviction and stop related campaign finance investigations and prosecutions by the USAO-SDNY; and
5. All documents and communications between and among Main Justice officials and USAO-SDNY officials referring or related to requests, suggestions, or instructions from Main Justice officials that the USAO-SDNY lead a Logan Act investigation into Mr. Kerry.

Thank you for your prompt attention to this important matter.

Sincerely,

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

Richard J. Durbin
Chair

cc: The Honorable Charles E. Grassley
Ranking Member