

January 9, 2019

Dear Senator,

On behalf of the Alliance for Justice, a national alliance representing 130 groups committed to equal justice and access to justice, I write to urge you to reject the nomination of William Barr to be Attorney General of the United States.

William Barr's nomination is not occurring in a vacuum; it must be colored by President Trump's repeated attacks on the rule of law. The President has made clear he expects personal loyalty from those in law enforcement. He has tried to eviscerate any notion of an independent Justice Department, repeatedly demanded investigations into the media and political opponents, and consistently tried to undermine independent investigations of himself, his campaign, and his Administration. The President has attacked judges who have ruled against him. He has abused his pardon authority. He has repeatedly acted in ways struck down by courts.

President Trump fired Acting Attorney General Sally Yates because she acted independently, based on the Constitution. He fired Jeff Sessions because Sessions refused to quash the Mueller probe. He then replaced Sessions with Matt Whitaker, an individual whose most notable qualification was likely his public criticism of the Mueller investigation. And, Trump has now nominated William Barr, who also very likely threatens the independent investigation of the President, shares the President's expansive views of unchecked executive power, and will not restrain the President's attacks on the rule of law.

William Barr has a lengthy record of opposing independent investigations of the President, and in fact strongly considered firing Lawrence Walsh when Barr previously served as Attorney General. Barr also played a key role in George H.W. Bush's controversial Iran-Contra pardons that the independent counsel at the time assailed as a cover-up.

It has been reported that President Trump has already asked if Barr would recuse himself from the Mueller investigation. Moreover, Barr is already on record minimizing the seriousness of allegations regarding President Trump and Russia. And, Barr already submitted a lengthy memorandum, shared with the White House, arguing that Robert Mueller should not be able to investigate President Trump for obstruction of justice. He is even on record opposing "congressional incursions" into the president's power to fire officials, which would be precisely the issue should Congress enact legislation to protect Mueller.

The Attorney General is critical for protecting the Constitution and rule of law. Yet, there is nothing in the record suggesting Barr will be an independent check on any illegality or untoward conduct by the President. For example, Barr heavily criticized Sally Yates's decision to follow the Constitution when she directed Department of Justice lawyers not to defend the original discriminatory Muslim Ban (which was struck down by multiple courts). He sees nothing wrong with the president calling for an investigation of his political opponents. Barr reportedly played

a role in approving a bulk data collection program and supported immunity for tech companies that helped violate Americans' civil liberties. And, he pushed back on efforts by Congress to prohibit torture.

While our concerns with the Mueller probe and executive power are foremost, AFJ has other grave concerns with Barr's nomination.

Attorney General Barr will be the most influential figure in enforcing some of our nation's civil rights laws. Unfortunately, the Justice Department under Attorney General Sessions repeatedly took positions hostile to the rights of *all* Americans. The Department has attacked the rights of persons of color, women, LGBTQ Americans, persons with disabilities, and immigrants, and we believe William Barr's confirmation would also undermine equal justice under the law.

Barr has a troubling record on the protection of rights of LGBTQ Americans. He has spoken disparagingly of gays and lesbians. He led the effort to maintain a policy of preventing HIV-positive non-citizens from entering the country and was reportedly a proponent of keeping HIV-positive Haitians housed at Guantanamo Bay, even though they were approved for asylum. And, Barr praised Jeff Sessions's decision to rescind guidance protecting transgender Americans.

Barr also has a troubling record on women's rights; he has repeatedly called for overturning *Roe v. Wade*. As just one example, after the Supreme Court decided *Planned Parenthood v. Casey*, Barr said "I think *Roe v. Wade* should be overturned" and he reaffirmed that the Justice Department "will continue to do what it's done for the past 10 years and call for the overturning of *Roe v. Wade* in future litigation."

Further, Barr has a troubling record with regard to persons of color. Barr served as attorney general during the so-called War on Drugs, which disproportionately impacted communities of color. Notably, he wrote a report titled "The Case for More Incarceration." In a 1992 speech, Barr said "The choice is clear. More prison space or more crime." He defended laws that made prison sentences for crack cocaine much harsher than prison sentences for powder cocaine, which had a significantly disparate impact on communities of color. He opposed the bipartisan Sentencing Reform and Corrections Act of 2015 and applauded Jeff Sessions's decision to revert to harsh charging policies.

Barr also has a disturbing record on the rights of immigrants. He supported President Trump's discriminatory Muslim Ban. He has argued that "[o]ne of the biggest problems we have with immigration . . . is the abuse of the asylum laws." He tried to prevent Haitian asylum seekers from reaching the U.S. After the Rodney King riots in LA, Barr stated that "the problem of immigration enforcement – making sure we have a fair set of rules and then enforce them – I think that's certainly relevant to the problems we're seeing in Los Angeles."

Finally, we do not believe a Barr Justice Department will truly ensure the Justice Department serves *all* Americans. At the same time that the Trump Justice Department has fought to have a

court declare the Affordable Care Act unconstitutional – taking away health insurance from millions of Americans – it is perhaps no coincidence that the President has nominated an individual who also challenged the constitutionality of the landmark law, filing a brief arguing the law was unconstitutional. Moreover, Barr, who received \$10 million from Verizon when he left the company, has fought vigorously against critical consumer protections for internet users. He has opposed important protections for investors Congress put in place after the Enron and WorldCom scandals. He has opposed the False Claims Act.

Given all these concerns, and as detailed on our fact sheet on his nomination, which can be found at the following link, <https://afj.org/reports/william-barr>, the Senate should reject William Barr's nomination to be U.S. Attorney General.

Regards,

A handwritten signature in black ink, appearing to read "Nan Aron". The signature is fluid and cursive, with the first name "Nan" and the last name "Aron" clearly distinguishable.

Nan Aron
President