



Nomination of William Barr for U.S. Attorney General

January 10, 2019

The Center for American Progress (CAP) is writing to express our strong opposition to the nomination of William Barr for U.S. Attorney General. William Barr's confirmation to this position will mean a continuation of Trump's unprecedented assault on civil rights and civil liberties. Barr has long supported tough-on-crime policies that are in opposition to criminal justice reform. He also opposes immigrant, LGBTQ, and reproductive rights. Given his extreme record, it is unlikely that Barr will uphold civil rights protections of all Americans as the Attorney General.

Equally as troubling, prior to his nomination, Barr sought to delegitimize the Mueller investigation, suggested the Department of Justice should investigate baseless conspiracy theories against Trump's political opponent, and even talked with Trump about being his defense attorney. Given Trump's stated desire to have an attorney general who will shield him from liability for his actions and his illegal installation of a crony as acting attorney general, it is of the utmost important that the Attorney General be someone who can operate with independence, particularly when our national security and the rule of law are at stake. It is clear that Barr cannot be that person. His nomination must be opposed to safeguard civil rights and the integrity of the Department of Justice and our democracy.

Democratic Integrity. Special Counsel Robert Mueller's obstruction of justice inquiry into President Trump, who has [made it clear](#) he wants an Attorney General willing to protect him, is critical to assessing the depth of foreign intervention in the 2016 Presidential Election and must be protected. The person overseeing it must be beyond reproach, especially given that Deputy Attorney General Rod Rosenstein has signaled his intention to leave the Department of Justice within the next month. Unfortunately, the evidence suggests that, if confirmed, Barr would instead act as Trump's hatchet man to try and undermine the investigation.

- In the summer of 2018, Barr took the inexplicable step of [authoring](#) an unsolicited memo to Trump White House lawyers and Department of Justice officials criticizing the Mueller investigation
- Barr first auditioned to be Trump's defense attorney, having at least [one meeting](#) with him on the topic.
- Barr has a history of [supporting presidential efforts to undermine investigations](#). And he suggested the Department of Justice should investigate [wild conspiracy theories](#) against Trump's former political opponent, Hillary Clinton.

- Barr must promise to recuse himself from any involvement in the Mueller investigation and [grant Mueller maximum independence](#), just as Acting Attorney General Robert Bork did after President Nixon's Saturday Night Massacre.

Criminal Justice. Today lawmakers and experts across the ideological spectrum increasingly agree with evidence indicating that mass incarceration does not markedly improve public safety, and that the criminal justice system must be reformed to reduce unfair racial disparities. Yet, Barr is ideologically committed to a punitive criminal justice system, and his viewpoints have not caught up to the public's opinion or evidence. Barr cannot be trusted to continue this country's momentum toward criminal justice reform.

- During his stint as Deputy Attorney General from 1990 to 1991 and Attorney General from 1991 to 1993, Barr pushed policies like the [Crime Control Act of 1990](#) that escalated the war on drugs and mass incarceration.
- In 1992, he [wrote](#) the introduction to a Department of Justice report titled *The Case for More Incarceration*, arguing the U.S. was "incarcerating too few criminals" even as the U.S. led the world in incarceration rates.
- In the same year, in an [interview](#) on racial disparities in the criminal justice system, Barr claimed that "our [criminal justice] system is fair and does not treat people differently." He went on to defend sentencing disparities for crack offenders versus cocaine offenders.
- Barr [opposed](#) the Sentencing Reform and Corrections Act of 2015 which includes provisions similar to those in the recently-passed FIRST STEP Act, and he enthusiastically [supported](#) his would-be predecessor's regressive criminal justice policies including the instruction to federal prosecutors to pursue the highest sentences possible for all crimes.

Immigration. Barr's record on immigration indicates he will not uphold the basic due process protections of immigrants and asylum seekers. His background suggests that he would uphold this Administration's dark vision and animus for immigrants. If confirmed, Barr would once again have the power to help determine our nation's immigration policies.

- As Attorney General under President George H.W. Bush, Barr contributed to the criminalization of immigrants by [expanding](#) punitive immigration enforcement and detention.
- Barr emphatically supported President George H.W. Bush's illegal program of detaining some 12,000 Haitian refugees at Guantanamo Bay and denying them access to attorneys. Under Barr's direction, approximately 300 of the Haitian asylum seekers were kept in a separate camp because they had HIV and were denied basic human rights protections. Ultimately, a federal judge struck down Barr's actions and [ruled](#) the Haitian refugees had the right to legal representation and access to treatment in the U.S.
- Barr is poised to continue his predecessor's legacy of hostility and cruelty towards immigrants, refugees, and [communities of color](#).

Civil Rights. Barr's troubling public record on civil rights expands beyond criminal justice and immigration, painting a picture of someone who is hostile or indifferent to the rights of

vulnerable Americans. Barr's views are out of the mainstream and would only continue the Trump Department of Justice's record of hostility toward LGBTQ people and women.

- In 1991, Barr [revealed](#) his opposition to women's reproductive rights, making the unconstitutional claim that the right to privacy does not extend to the right to access abortion and that *Roe v. Wade* should be overturned.
- In a 1992 letter to the Senate, Barr [opposed](#) the Freedom of Choice Act (FOCA), legislation that would enshrine *Roe v. Wade* into law. The letter stated that he would advise then-President George H.W. Bush to veto the legislation if Congress approved it.
- In a recent [op-ed](#), Barr praised former Attorney General Sessions for issuing a "religious liberty" memo that [facilitated discrimination against LGBTQ people](#).

Economic Matters. From financial system abuses to tax evasion to antitrust enforcement and more, the Department of Justice plays a vital role in enforcing laws that hold the most powerful economic interests accountable under the rule of law. Unfortunately, William Barr has a track record in opposition to consumer protection, antitrust enforcement, and corporate accountability structures. Although some of it may have occurred consistent with his work responsibilities, his record still raises red flags regarding his priorities and potential conflicts of interest.

- Barr [opposed](#) net neutrality as an important component to a free and open internet and also [filed](#) a brief in opposition to the structure of the Public Company Accounting Oversight Board, which was put in place after the Enron and Worldcom accounting scandals to combat accounting fraud and corporate malfeasance.
- Barr has supported large and controversial mergers and acquisitions, including when he [served](#) on the board of Time Warner as they sought to merge with AT&T in 2017 — an effort that the Justice Department moved to block.
- At a time when the [Trump Administration's poor record](#) on antitrust and competition, concerns about political interference and even corruption, and its deregulatory approaches to [financial regulation and accountability](#), [worker rights](#) and [tax enforcement](#) all weigh heavily, Barr signals the wrong direction for what should be the Attorney General's priorities on economic policy and justice.

Barr's record demonstrates he is unfit to operate as this country's chief law enforcement officer. The American people deserve an independent Attorney General who will carry out the duties entrusted to the Department of Justice of protecting the civil rights of all Americans. CAP urges all members of the U.S. Senate Judiciary Committee to consider these concerns and oppose the nomination of William Barr for U.S. Attorney General.